Marc Strauch	NLP	25527	2.40%

Superintendent of Public Instruction			
Candidate	Party	Votes	Percentage
Teresa "Terry" Bergeson	NP	379544	38.31%
Ron Taber	NP	174990	17.66%
Chris Vance	NP	119644	12.08%
Dan Leahy	NP	68994	6.96%
Nancy Hidden-Dobson	D	53969	5.45%
Richard A. Fuller	NP	47438	4.79%
Gloria Guzman Johannessen	NP	43737	4.41%
Raul de la Rosa	NP	37646	3.80%
O. Jerome Brown	NP	32127	3.24%
Mae Laverne Lovern	NP	18018	1.82%
Earl LaBerge	NP	14540	1.47%

Insurance Commissioner			
Candidate	Party	Votes	Percentage
Deborah Senn	D	571167	54.00%
Anthony "Tony" Lowe	R	173610	16.41%
Brian McCullock	R	124514	11.77%
Dave Walker	R	77571	7.33%
Steve Skipper	R	63490	6.00%
Garland Dale Connor	R	23769	2.25%
Steve Sevick	NLP	23554	2.23%

Shawn Newman	REF	10774	1.01%
Michael Hackett	NLP	8945	0.84%

Secretary of State Candidate	Party	Votes	Percentage
Ralph Munro	R	643628	60.40%
Phyllis Kenney	D	388405	36.45%
Gary Gill	NLP	33571	3.15%

State Treasurer Candidate	Party	Votes	Percentage
Mike Murphy	D	382262	37.14%
Lucy DeYoung	R	288857	28.06%
Randolph Bell	R	201221	19.55%
Jack Kiley	D	156904	15.24%

State Auditor Candidate	Party	Votes	Percentage
Brian Sonntag	D	603663	56.81%
Robert B. Keene, Jr.	R	199721	18.79%
Nina Becker	R	192861	18.15%
Mike the Mover	R	66430	6.25%

Attorney General Candidate	Party	Votes	Percentage
Christine Gregoire	D	640031	57.32%
Richard Pope	R	415191	37.18%
Richard Shepard	LBP	37314	3.34%
Luanne Coachman	NLP	24031	2.15%

Commissioner of Public Lands Candidate	Party	Votes	Percentage
Jennifer Belcher	D	567009	53.36%
Bruce Mackey	R	291695	27.45%
Patrick Parrish	R	108877	10.25%
Randy Boss	R	69538	6.54%

SEPTEMBER 1996 PRIMARY

Governor Candidate	Party	Votes	Percentage
Gary Locke	D	287762	23.65%
Norman Rice	D	212888	17.50%
Ellen Craswell	R	185680	15.26%
Dale Foreman	R	162615	13.37%
Jay Inslee	D	118571	9.75%
Norm Maleng	R	109088	8.97%
Jim Waldo	R	63854	5.25%
Pam Roach	R	29533	2.43%
Nona Brazier	R	21237	1.75%
Brian Zetlen	D	6152	0.51%
Warren E. Hanson	R	4886	0.40%
Bob Tharp	R	4825	0.40%
Jeff Powers	SWP	3742	0.31%
Mohammad H. Said	D	3007	0.25%
Max Englerius	D	2837	0.23%

Lt. Governor Candidate	Party	Votes	Percentage
Brad Owen	D	242757	22.71%
Paull Shin	D	235461	22.02%
Ann Anderson	R	207727	19.43%
Jim West	R	96979	9.07%
Ed Torres	R	58803	5.50%
Gerald Clark Goodloe	R	50771	4.75%
Bob Owen	D	44510	4.16%
Bambi L. Litchman	D	34326	3.21%
Frank Gavaldon	D	32658	3.05%
Bruce Buckles	R	19951	1.87%
Harvey Billmaier	D	13613	1.26%
Art Rathjen	LBP	11902	1.11%

EXHIBIT D

guidelines or that are not being used for their original intent;

- tax credits given to those vehicles that exceed gas mileage guidelines or use alternative fuels;
- inclusion of ferry routes as major collector roads for planning and funding purposes;
- vigorously encourage revising safety standards for tires based on real world safety performance for new and retread passenger tires, medium and heavy vehicles;
- safer intersections for vehicles and pedestrians through better design, improved traffic control measures, and where warranted, revision of existing practices for traffic control devices to permit longer phasing to pedestrian signals to enable safer crossing at high-volume roadways;
- the use of alternative fuels, neighborhood electric and hybrid vehicles through targeted tax incentive;
- recognition that aviation, both private and commercial, is a key form of transportation in our state.

We oppose:

- tariffs paid solely by ferry riders that exceed the subsidies for operating other components of the state highway system;
- major airport expansion without public input, review and vote.

Passed by the convention, June 5, 2004

(4,589 words)

We oppose:

- using our precious military resources in international affairs as a first resort rather than a last resort, and we urge the abolishment of the pre-emptive war doctrine.

TRANSPORTATION

We believe that transportation systems (be they commercial, personal or mass transit) that are efficient, flexible and visionary are key to a healthy economy and environment.

We support:

- making investments in public infrastructure that broaden both rural and urban transportation choices and reduce dependence on the automobile;
- improved facilities for non-motorized movement of people such as pedestrian paths, bicyclists, and people in wheelchairs;
- provide equity and parity in state support among all forms of transportation (i.e. buses, ferries, light rail, heavy rail, monorail, etc.);
- public involvement at all levels in developing transportation plans and systems;
- multiple funding sources including fuel taxes, excise taxes and user fees, which are as progressive as possible, as appropriate for funding essential transportation projects;
- having multiple airports in major urban areas;
- elimination of all tax subsidies which benefit motor vehicles not meeting gas mileage

spouse reaches age 62, and elimination of the VA disability offset from military retired pay;

- restoration of full, no-cost treatment at military medical facilities for retirees, just as they were promised when they joined;
- complete funding of all VA hospitals and medical treatment facilities for disabled veterans and increased funding for long term care;
- compensation for Guard and Reserve members activated for more than 14 days in combat operations; the government should pay the difference between their non-military and military pay;
- increased instruction of all American personnel in their rights and responsibilities under the Geneva Convention;
- the rights of all persons serving in the military to serve free of sexual harassment and sexual assault and support the prosecution of offenders.

We affirm:

- the right and responsibility of each woman in the military to make her own reproductive decisions and her right to follow through on those decisions at non-military medical facilities and at her own expense. If needed, the Uniform Code of Military Justice should be revised to guarantee this right;
- that Veteran's programs be regarded as entitlement programs.

- review of mandatory sentencing guidelines and "three-strikes" sentencing, especially for non-violent offenses;
- drug courts;
- elimination of all forms of racial profiling by government or law enforcement;
- eliminating the conditions closely linked to crime and violence by investing in nonviolent conflict resolution, education, health care, social services, and living wage jobs;
- diversion for adult misdemeanors and juvenile offenders, when possible, to alternative victim-offender restorative mediation under the oversight of prosecuting attorney offices.

MILITARY

Democrats have always answered their country's call to duty and are proud of our military contributions to the nation. We believe that our military men and women – the best our nation has to offer – should always have leadership worthy of them.

We Support:

- all our military members serving at home and overseas, and a safe speedy return for those in combat areas;
- abolition of the military's "don't ask, don't tell" policy and legislation to ensure homosexuals serving their country have equal status with all other service members;
- repeal of the Survivor's Benefit Plan (SBP) Social Security offset when a widowed military

- violence should not become an accepted fact in our communities;
- authorities and communities must work together, assume responsibility for safety and prevention of crime, and make neighborhoods livable;
- government must help alleviate the social conditions which contribute to crime;
- comprehensive crime prevention must include youth programs;
- property forfeiture should be permitted only after criminal conviction, not on arrest or by seizure;
- corporate officers and board members should be held responsible for the actions of their companies.

We support:

- a new approach to drug addiction focused on treatment and education as opposed to incarceration;
- the stringent enforcement and maintenance of current state and federal laws regulating the ownership of firearms, while respecting the rights of responsible gun owners;
- abolishing capital punishment;
- adequate state funding for indigent defendants in all criminal cases;
- DNA testing to free the innocent and convict the guilty in criminal prosecutions;

- efforts to eliminate restrictions on the working hours of teenagers;
- U.S. corporations going offshore in order to evade U.S. laws and taxes;
- the privatization or out-sourcing of public services;
- profiteering, misuse of private data and predatory lending by financial institutions;
- right-to-work laws;
- use of permanent replacement workers during strikes;
- supplanting public employees with low-wage, low benefit contract employees or prison labor;
- privatization of Social Security.

LAW & JUSTICE

We recognize that civil order is necessary to the survival of a free and democratic state. Civil order can occur only when Justice treats the least among us the same as the greatest in all legal matters. We also recognize that in the pursuit of civil order, we cannot abandon the legal principles upon which a free and democratic society relies. We affirm Liberty and Justice for everyone residing in the US according to the constitution and believe that criminal Justice and human rights are linked.

We believe:

- prevention of crime is as important as reaction to crime;

- protection of whistleblowers, (including Federal employees);
- responsible and responsive bidder language in all public-financed works that includes contractor responsibilities on fair wages, health insurance, retirement and training;
- the 15% set-asides for using state certified apprentices on public works projects.

- Social Security
  - a separate and dedicated Social Security Trust Fund;
  - maintenance of disabled and dependent survivor Social Security benefits.
- Support for Economically Disadvantaged
  - welfare reform that will reduce proverty, not just the welfare rolls;
  - funding childcare for citizens transitioning off welfare;
  - public assistance safeguarding the vulnerable poor who cannot reasonably provide for themselves;
  - increased affordable and low-income housing, with emphasis on home ownership;
  - unemployment and retraining benefits for workers laid off or locked out by their employers;

We oppose:

- tip-credit minimum wage;

- economic policies conducive to the growth of small business and a strong independent farm system;
- strict enforcement of all contracting laws, holding violators responsible for payment of all taxes and penalties.

- Worker Rights
  - the rights of workers to a safe and healthy workplace, free from harassment;
  - the rights of all workers to organize and use mediation, arbitration, and the right to strike without fear of reprisal or replacement;
  - a workers' bill of Rights that includes rights of assembly, association and free speech, due process, freedom from discrimination, and democracy within unions;
  - the right of new bargaining units to request mandatory arbitration on the first contract;
  - the repeal of the anti-labor Taft-Hartley Act, which has tilted labor law in favor of employers;
  - the automatic recognition of a union, based on signatures of a majority of those represented (card-check);
  - full funding for enforcement of employment standards, child labor laws, and worker safety laws;

We support:

- Fair Taxation
  - progressive tax system at both the federal and state level
  - incentives, including targeted tax credits, to businesses that provide family wage jobs with adequate healthcare and pension benefits, and special programs such as on-site daycare;
  - fair system of paying for growth with impact fees; we oppose the cost-shifting of these expenses onto the general public.
- Fair Pay
  - minimum wage that is a living wage;
  - equal pay for equal work;
  - maintenance of state and federal prevailing wage laws;
  - reducing the wage gap between rural and urban areas of the state, including ensuring adequate housing wages and health care for farm workers;
  - protection of overtime pay.
- Fair Economic and Trade Policies
  - only multilateral trade agreements which are conditioned on environmental standards, human rights and workers rights, and which support democratic transparent processes;

treatment programs, and education designated to reduce these ills.

IMMIGRATION

We Support:

- challenging any legislation that:
  - declares English as the official language of the United States;
  - disregards cultural pluralism;
  - deprives those in need of education, social services, and employment access to these resources.

We Oppose:

- any immigration policy that denies civil and/or human rights or educational opportunities for immigrants and their children regardless of their immigration status.

We Affirm:

- that migrant workers deserve safe and adequate housing, medical care, education, and sanitary facilities.

INDIAN TRIBES AND TREATIES

Treaties made between sovereign Indian nations and the United States government must be upheld and preserved.

LABOR & ECONOMIC JUSTICE

Economic justice for working families is essential for the realization of a democratic society.

- the separation of church and state, and we oppose organized prayer in publicly funded schools;
- the right for medically assisted death with dignity with suitable safeguards for terminally ill patients;
- a woman's right to choose as protected by Roe vs. Wade and the Washington State Reproductive Freedom Act;
- the right to confidentiality of medical records and genetic information.

We affirm:

- the right to sovereignty over our own bodies. We support family planning and women's reproductive rights, regardless of age or ability to pay;
- that the state should not interfere with couples who choose to marry and share fully and equally in the rights, responsibilities, and commitment of civil marriage, regardless of sexual orientation or gender identity.

We oppose:

- discrimination in employment, housing, public accommodation, military service, insurance, licensing, or education based on race, religion, age, sex, marital status, sexual orientation, gender identity, disability, size, political affiliation, or national origin.

We abhor harassment, intimidation, and domestic or sexual violence, and support strong legislation,

- each person has a right to live free from fear of personal injury;
- the Patriot Act was created out of an irrational reaction to the terrorist acts of 2001, and therefore, the Act should be evaluated to remove components that are unconstitutional and affect liberty including, but not limited to:
  - free speech zones;
  - indefinite detention;
  - no fly list;
  - enemy combatants status;
  - denial of access to counsel;
  - suspension of the writ of habeas corpus.

  We insist that the Geneva Conventions be applied to all detainees, foreign or domestic, no matter where they are held.

We support:

- the Civil Rights Acts of 1964 and 1990;
- affirmative action; we believe those who suffer the burdens of discrimination must be afforded legal means and economic opportunities to overcome such injustice;
- the rights of senior citizens and individuals with disabilities to direct their own lives in housing, education and all other life choices, and the Americans with Disabilities Act of 1990;

records, prohibiting the sale or disclosure of personal medical or pharmaceutical records;

- protection of a woman's right to private consultation regarding reproductive decisions. Physicians will be allowed to perform reproductive procedures without fear of retaliation, even in the event of legislative changes;
- a reasonable medical malpractice rate structure, preserving a right to a jury trial and ensuring fair awards for preventable medical errors. Insurance company stockholders, rather than healthcare providers, will bear the burden of investment losses;
- the repeal of the Global Gag Rule that cuts $34M to UN and international family planning agencies;
- the legalization of marijuana for medical purposes;
- preservation of existing VA hospitals and clinics, and increased funding for the long-term care of veterans, we have a moral obligation to care for our veterans.

HUMAN RIGHTS AND CIVIL RIGHTS

We believe:

- that the inherent dignity and the equal and inalienable rights of all human beings are the foundations of freedom, justice, and peace in the world;
- food, shelter, medical care, education and jobs are basic human rights;

We support:

- creation of a universal, publicly funded, single-payer, not-for-profit, comprehensive health system preserving consumer choice;
- parity of mental and physical health coverage;
- amending the Medicare prescription drug benefit to permit access to generic and other cost effective drugs;
- eliminating discrimination against low income patients in the delivery of equal health care;
- a strong Patient Bill of Rights;
- improved long-term care of the consumer's choice (including home care and hospice), and ensuring living wages and training for caregivers;
- regulation and inspection of institutional and residential health care systems;
- Federal regulation and inspection of the medical insurance industry;
- increased funding for prevention programs (such as nutritional education, prenatal care, reproductive health education, and suicide prevention) and disease research and control (including stem cell research);
- dedicating tobacco settlement monies only to tobacco-related health care programs and tobacco use prevention;
- privacy protection of jointly-owned (patient/facility) medical and mental health

- fair, voter-verifiable, fully transparent and auditable voting systems;
- encourage colleges and universities to register students to vote and to open campus polling places;
- full congressional representation for residents of the District of Columbia;
- inclusive campaign and debate process that does not exclude credible third party candidates;
- enforcement of sunshine laws and transparency in sessions that discuss and make policy;
- aggressive congressional investigation of improper connections between government and industry;
- universal voter registration of all U.S. citizens who are eligible voters.

We oppose:

- any practice that reveals election results while the polling places are still open;
- privatizing, outsourcing or off-shoring of governmental public services.

HEALTHCARE

We believe access to quality health care is a basic human right for all people, essential to national safely and well-being.

- the United States' ratification of CEDAW (7th Convention to End Discrimination Against Women).

GOVERNMENT AND POLITICAL REFORM

Government embodies the people and must reflect our values as citizens. Our government must be fiscally sound, operate ethically, refrain from establishing or supporting religion, be open, transparent and accountable to the people. Our faith in our government and in our political system can only be restored through constructive reform.

Citizen participation is a right and duty of citizenship, and fee, open and verifiable elections are key to our democratic process. Only substantial election reform can restore faith in the lection system.

We believe:

- taxes are the price of civilization; we want our taxes to be levied fairly and spent frugally;
- all regulatory agencies should be fully funded.

We support:

- making Election Day a national holiday;
- immediate restoration of voting rights of felons who have completed their sentences;
- public financing of all election campaigns.
- laws requiring all broadcast license holders to provide adequate free airtime to political candidates as a condition of their FCC license;

financial obligations to the U.N, and ratifying pending human rights conventions;

- a call for all governments and corporations to immediately stop production, stockpiling, testing, and use of uranium, depleted uranium, or other radiological weapons;
- closing the School of the Americas, aka The Western Hemispheric Institute for Security Cooperation;
- practice fair trade based on sound environmental quality principles, worker rights, and welfare;
- creating a cabinet-level Department of Peace to establish non-violence as an organizing principle in both domestic and international affairs, strengthen international institutions and cooperative diplomacy to prevent acts of terrorism and resolve international conflicts;
- the elimination of excessive, unnecessary, and redundant programs and weapons, such as Star Wars and the Anti-Ballistic Missile Shield, from the military budget, and investing the savings in pressing domestic needs;
- that the United States should commit to vigorous, serious and persistent even-handed engagement towards a peaceful resolution of the Israeli/Palestinian conflict, promoting negotiations that lead to a viable resolution and ensure security and a good quality of life for the Israeli and Palestinian peoples;

- multinational corporations, their affiliates, subsidiaries and/or franchises may not operate above the international rule of law;
- WTO and NAFTA, as now written, undermined constitutional power of Federal and State government and fail to promote human rights, labor rights, environmental protection worldwide, and therefore the U.S. should re-negotiate said treaties or exercise its right to withdraw.

We support and affirm:

- developing and implementing an equitable and rapid exit strategy from Iraq and Afghanistan;
- nonviolent initiative aimed at rebuilding civil society and encouraging democracy in Iraq, Iran, and Afghanistan;
- encouraging strict health, safety, and environmental standards worldwide;
- the end of military support to countries that violate human and civil rights;
- honoring and upholding the rights, welfare, and healthy environment of all indigenous people;
- increasing federal funding to combat world hunger and the HIV/AIDS epidemic worldwide;
- consistently working cooperatively with all countries through the United Nations, upholding the Geneva Convention, paying its

- proclaim the executive and legislative branches of government shall abandon the doctrine of pre-emptive warfare and shall make nonviolence the primary organizing principle of foreign policy.

We support:

- International Criminal Court;
- U. N. Land Mine Treaty;
- Biological & Chemical Warfare Conventions;
- ABM Treaty;
- Comprehensive Test Ban Treaty;
- Nuclear Non-Proliferation Treaty;
- Space Preservation Treaty;
- Child Soldier Treaty;
- U.S. foreign policy must empower and support the right of all people to self governance and self determination;
- CEDAW (7th Convention to End Discrimination Against Women);
- The Kyoto Protocol on Global Climate change.

We believe:

- multinational corporations are not legal persons entitled to equal protection under the 14th Amendment to the U.S. constitution;
- U.S. companies abroad must be prohibited from engaging in practices that would be prohibited at home;

renewable energy, including biodiesel and ethanol.

We oppose:

- trading of energy and pollution credits;
- tying funding of school construction to destroying old-growth forests or non-sustainable resource exploitation;
- any expansion of nuclear power until environmentally safe long-term waste storage can be guaranteed;
- waste disposal and oil exploration in any wildlife refuge, wilderness area, or other environmentally sensitive area;
- importing new nuclear waste to the Hanford Nuclear Reservation;
- exemption of military bases from environmental regulation.

FOREIGN POLICY

The U.S.A. should seek to uphold human welfare and the environment for all people worldwide.

To promote democratic ideals abroad, it is imperative that we:

- support nonviolent conflict resolution;
- support a multilateral approach to foreign policy;
- support the Universal Declaration of Human Rights;

effects of all potentially harmful chemicals and substances that they produce, store or release;

- higher Corporate Average Fuel Economy standards and extending their application to SUVs;
- current state law, which requires voter approval of large public energy projects before bonds are issued;
- strong public policy that restores full funding for the National Park Service and preserves wilderness, old-growth, road free areas, wildlife corridors, wetlands, and other environmentally sensitive areas;
- efforts to reduce waste and to promote the reuse and recycling of materials;
- making polluters pay for cleanup by reinstating the federal tax on toxic waste under the Superfund Program;
- strengthening the Growth Management Act, and supporting neighborhood and community planners in their efforts to protect our quality of life;
- upgrading our outdated electrical grids so that power can be distributed efficiently and reliably;
- revising the 1872 Mining Act to provide fair market compensation to the public and limiting exploration and extraction in environmentally sensitive public lands;
- utilizing biomass conversion to process American farm products and byproducts into

environment. No government should make any law, regulation, treaty or agreement infringing upon these rights.

We support:

- conservation and development of clean, efficient, renewable, and natural sources of power;
- elimination of tax breaks to nonrenewable-energy companies, except for pollution control equipment;
- strong measures that reduce greenhouse gases;
- federal government restoration and cleanup of all contaminated lands and water, public or private;
- long-term policies that give priority to the preservation of biodiversity, protection of ecosystems and watershed, and restoration of wild salmon and other endangered species;
- efforts to reduce the use of pesticides, herbicides, and other persistent toxic chemicals;
- increasing governmental support for organic farming and preservation of agricultural land;
- programs to reduce polluted urban and agricultural run-off into waterways and aquifers;
- full disclosure by companies and by the government of the health and environmental

and assuring that early childhood education is accessible to all;

- inclusion of Fine Arts education in the Basic Education Act of the State;
- providing facilities and programs that advance vocational and technology education; providing access to higher education, by all, through financial aid and work-study programs;
- using a simple majority to pass school levies and bonds;
- public education employees' rights to organize, engage in collective bargaining, and strike without fear of reprisal or replacement;
- age-appropriate, research-based health and values education concerning issues of sexuality and alcohol/drug abuse for K-12;
- methods of funding educational capital projects other than logging public land;
- restraints on aggressive military recruiting in public high schools and equal opportunity for dissenting opinions.

We oppose:

- Charter Schools;
- voucher payments to private schools
- the commercial exploitation of students in our schools (e.g. "junk food" and advertising).

ENVIRONMENT AND ENERGY

Every individual has a fundamental right to clean air, pure water, safe food and a healthy natural

EDUCATION

"It is the paramount duty of the state to make sample provisions for the education of all children"
The Washington State Constitution – 1889

We believe public schools bring together people of diverse experience, ability and background for the purpose of learning.

We support:

- a stable funding source for all basic, gifted, special education state and federal programs and mandates such as "No child left behind";
- reinstatement of I-728 that calls for reduction of class sizes;
- reinstatement of I-732, which allows cost-of-living increases for all public school employees;
- schools that are safe from violence, bullying, harassment and retribution;
- full inclusion of all students into the school environment regardless of race, ethnic origin, religion, sexual orientation, gender identity, economic status or disability;
- full-time counselors and school nurses in every school;
- state of the art school facilities that are adequately maintained and regularly certified as safe and healthy by public health authorities;
- fully funding Headstart and ECEAP (Early Childhood Education and Assisted Programs)

constitutional rights, including the First Amendment right to make political contributions in the corporate capacity;

- tax breaks to corporations and other corporate welfare, unless a verifiable public interest is served.

Media

We believe:

- the public owns the broadcast airwaves and the Internet, which should be managed to serve the public interest.

We support:

- using diversity of ownership as the centermost principle of broadcast licensing;
- strengthening media ownership regulations to avoid corporate domination of our airwaves;
- encouraging minority and community media ownership;
- ensuring that media license holders provide diverse programming;
- increased funding for public broadcasting including documentary films and non-commercial news programs;
- establishing a system for community-level, non-profit, and non-commercial radio and TV nationwide.

approaches aimed at obtaining resources for such development;

- the role of farmers as 'stewards of the land'.

We strongly advocate adequate governmental support for agricultural research and extension programs to develop, improve, and protect crops and livestock and research the requisite projects to improve quality, marketability, and safety of agricultural products.

CORPORATE POWER & MEDIA REFORM

Corporate Power

We believe:

- corporations are vital to our economy and standard of living;
- business friendly laws can be beneficial;
- corporations should not exert an undue influence on our body politic or use our Constitution in the courts to thwart our democratically enacted laws.

We support:

- revoking the charters of corporations that repeatedly violate our laws;
- a government created by, of, and for the people, not corporations.

We oppose:

- the Supreme Court precedent that corporations are people, and further oppose corporation rights as persons under our constitution and their associated

agriculture, availability of high quality food, and economic security of the nation;

- conservation and environmental programs and economic incentives that help conserve agricultural land and natural resources such as soil, water, forests, and wildlife habitat;
- international programs that reduce global warming;
- development of domestic and international marketing opportunities for crop and animal products and international trade agreements that assure fair marketing and employment practices;
- antitrust laws should be enforced and applied to agribusiness;
- management of ocean fisheries to prevent dangerous depletion;
- substantial land grant college funding of research in sustainable, non-toxic farming techniques;
- strong organic farming standards;
- clear labeling of food including nation of origin, genetically modified organism status, irradiation, and organic status;
- requiring inspection of all animals AT RISK OF THIS DISEASE entering the food chain for processing for spongiform encephalopathy.

We recognize:

- the need for new and sustainable development in rural areas and encourage various

We adopt this platform to ensure that voters and candidates for public office understand and support our goals.

AGRICULTURE

Agriculture is the number one industry in Washington.

We believe:

- that any decisions about breaching, removing, compromising, or encroaching on waterways should be based on sound, credible economic and scientific information;
- U.S. dollars earmarked for agriculture subsidies should go to sustainable family farms and not to agribusiness;
- The Columbia and Snake Rivers, including the dams that were primarily constructed under Democratic leadership, support the economic health of the Pacific Northwest.

We support:

- programs that provide an economic stimulus for survival, protection, and improvement of rural communities, including development of affordable high-speed access and rural transportation services;
- governmental programs, particularly those of the U.S. Department of Agricultural, that assure the survival of family farms;
- funding for agricultural commodity programs to assure long-term, economic viability of

Washington State Democratic Party
2004 Platform

As passed by the Washington State Democratic Convention

Tacoma, Washington, June 5, 2004

PREAMBLE

We hold that democratic principles are the foundation of a safe, stable, and prosperous future and that these principles must be woven into the fabric of our social, cultural, and economic lives. We declare our commitment to human rights, justice, and opportunity for all.

Our platform rests on the principles that there should be:

- security for all citizens;
- education, jobs and economic opportunity for all;
- accessible and affordable health care for all Americans
- a rebuilding of our reputation in the world as a cooperative and just country;
- a reversal of the erosion of civil liberties in our country;
- a recognition that diversity strengthens our nation;
- a recognition that we are responsible for our ethical, economic, environmental and education legacy.

EXHIBIT C

center to put freedom of choice and responsibility back into *your* hands.

On every issue, we ask: *In a free country, who decides?* Should you be free to make important choices about your life, your family, your money and your business, or should politicians decide for you?

In a free society, government's role is to protect us from the threat of assault, theft, civil injustice and foreign attack. And so, as long as your actions are peaceful, you should have the freedom to decide for yourself without government interference. Please, help us move public policy in the direction of *liberty.*

We invite you to get more information: visit www.LPorg or call toll free: 800-682-1776.

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Where do Libertarians fit in Left vs. Right politics?

Positions most often held by the Left:		*Positions most often held by Libertarians:*		*Positions most often held by the Right:*	
• Government Regulated Economy	• Personal Freedom			• Economic Freedom	• Government Regulated Morality
• Military Intervtion (Somalia, Haiti, Balkans)	• Non-Interventionist Foreign Policy			• Robust National Defense	• Military Adventurism ("Regime Change")
• Using Eminent Domain for Private Gain	• Tolerance of Others' Peaceful Choices			• Respect for Others' Property Rights	• War on Drugs
• Ban Guns	• Civil Liberties and Privacy			• Individual Right to Keep and Bear Arms	• USA Patriot Act
• Tax Funding of Government Charities	• Separation of Church and State			• Giving Generously to Help Those in Need	• Tax Funding of Faith-Based Chartities
• Special Rights for Minorities	• Equal Opportunity			• Advancement Based on Individual Abilities	• Corporate Welfatre

[picture omitted] Politicians on the left and right believe government should control large parts of your life. Libertarians are building a party in the sensible

EXHIBIT B

THE PLEDGE OF ALLEGIANCE

We strongly support and wish to promote and protect the continued use of the phrase "one nation under God" in our Pledge of Allegiance.

WASHINGTON STATE REPUBLICAN PARTY, PLATFORM COMMITTEE:

Olga Miller
Chair

Betty Haines
Co-Chair

Rudy Plager
Adams County

Nancy McCallister
Asotin County

Sherrey Hankins
Benton County

Bill Scott
Chelan County

Steve Marble
Clallam County

Ryan Hart
Clark County

Robert Yates
Columbia County

William Schumacher
Cowlitz County

Peter Himmel
Douglas County

Bret A. Roberts
Ferry County

Michael Massey
Grant County

Glenis Morrison
Grays Habor County

Andrew Valrosa
Island County

Kathleen Horner
Jefferson County

Julie Holbrook
King County

Mike Jones
Kitsap County

Steven Douglas
Kittitas County

Keith Silen
Klickitat County

Jason Chambers
Lewis County

Jayne Deife
Lincoln County

Ardean Anvik
Mason County

Teri Mitschelen
Okanogan County

Gordon Chaffee
Pacific County

Warren Nadeau
Pend Oreille County

Pattie Winfrey
Pierce County

Jim Boone
San Juan County

Harry Ota
Skagit County

Geri Modrell
Snohomish County

Virgina Warren
Spokane County

Jerry Matteson
Stevens County

Linda Grubbs
Thurston County

Karry Chappel
Whatcom County

Jan Smith
Whitman County

Harold DeWitt
Yakima County

- Compensating property owners when government actions reduce the value of their land secures our right to own property.
- Parents' right to choose their children's schools, be it public, charter, private, or home, with tax credits or vouchers protects our right to equal opportunity.
- Protecting individuals' first amendment right of religious expression in our public schools does not conflict with the Establishment Clause.
- All people are entitled to be treated equally by government. The use of quotas or preferences to favor one person or group over another violates that principle, as well as the Civil Rights Act of 1964 and the laws of the State of Washington.

We believe the right to keep and bear arms as stated in the 2nd Amendment of the U.S. Constitution and Article I, Section 24 of the Washington State Constitution guarantees an individual right, and as such, we support Right to Carry laws. We support protection of the American firearms industry against frivolous and harassing lawsuits that blame them for the actions of criminals, and we call for increased enforcement of existing laws against criminals, not more laws aimed at law-abiding citizens.

We encourage personal responsibility in exercising these rights.

PERSONAL LIBERTY – A Bill of Rights for All Washingtonians

We have a moral obligation, a minimum debt owed, as free American, to defend and preserve our freedoms: Free Speech, Freedom of Assembly, Defense of Life, the Right to Vote, Private Property Rights, Parental Rights, the Right to Keep and Bear Arms, and protect competitive free enterprise. Government exists by the consent of the governed. Smaller and more effective government will restore civic responsibility and individual freedom.

Ours is a nation created not by force, but by unifying ideals. People came here to be free to worship God as they choose without State restriction. For ours to remain one nation, where the source of our rights derive from God, not the state, we have the duty and obligation to teach our children the profound meaning behind the simple statement of allegiance to our flag and the ideals our nation was founded upon and to which so many have sacrificed their lives.

We re-affirm the Proper Role of Government is to protect our inalienable rights, including:

- Proof of United States citizenship for voting eligibility protects our right to vote.
- Protecting the integrity of the vote of our overseas military personnel.
- Campaign finance law that in no way prohibits free expression.
- The initiative process provided for by the Washington State Constitution.

- Personal/private tax-exempt medical savings accounts.
- Increasing competition among health care providers to promote accountability to patients.
- The reduction of regulation in order to reduce the cost of health care and prescription drugs.
- All prescription drugs purchases and health insurance premiums being fully tax-deductible.
- Research of adult and placenta stem cells and oppose human cloning.
- Making malpractice liability reform an urgent priority, which will lower the cost of healthcare for all of us.
- Requiring parental consent for minors who seek medical procedures, treatments, or pharmaceuticals.
- Calling upon the Federal and State Legislators and the Governor to immediately work toward national parity in the way that Medicare reimbursements are made to healthcare providers.
- The belief that government regulations and funding will not improve the quality or affordability of health care; therefore, oppose a universal government-run health care system.

- Constitutional protections, which safeguard our individual liberty, due process, and equal protection under the law.
- The efforts of law enforcement officers and firefighters who serve and protect our communities.
- Zero tolerance for sexual exploitation of minors.
- The role of the judiciary is to uphold the law in a manner faithful to the constitution and the Bill of Rights, in accordance with legislative intent and established domestic legal precedent as the only legitimate standard.
- The right of individuals to provide for the defense of themselves, their families, and their communities within the bounds of Common Law and the U.S. Constitution.
- The death penalty where appropriate and oppose early release of convicted felons for budgetary reasons.
- Legislation requiring limitation on the number of appeals and period of time with bonds posted by the appealing party.

HEALTH CARE - Access and affordability for all

Health care is a personal issue, and individuals can make better decisions about their own care than government. Republicans believe in free market solutions that reduce health care costs by offering more and better choices for consumers.

We support:

[graphic of Washington state omitted]

County Results List

County	Yes (Voters/Percentage)	No (Voters/Percentage)
Adams	**3,365**	**1,504**
	69.11%	30.88%
Asotin	**5,385**	**2,993**
	64.27%	35.72%
Benton	**39,745**	**24,233**
	62.12%	37.87%
Chelan	**18,339**	**9,946**
	64.83%	35.16%
Clallam	**21,344**	**13,495**
	61.26%	38.73%
Clark	**93,703**	**63,618**
	59.56%	40.43%
Columbia	**1,410**	**631**
	69.08%	30.91%
Cowlitz	**27,533**	**13,044**
	67.86%	32.13%
Douglas	**8,355**	**4,460**
	65.19%	34.80%

Ferry	**2,150**	**1,084**
	66.48%	33.51%
Franklin	**10,413**	**5,271**
	66.39%	33.60%
Garfield	**760**	**482**
	61.19%	38.80%
Grant	**16,235**	**8,581**
	65.42%	34.57%
Grays Harbor	**19,501**	**7,570**
	72.03%	27.96%
Island	**21,533**	**15,002**
	58.93%	41.06%
Jefferson	**10,273**	**7,667**
	57.26%	42.73%
King	**467,015**	**383,913**
	54.88%	45.11%
Kitsap	**68,267**	**46,779**
	59.33%	40.66%
Kittitas	**9,813**	**5,649**
	63.46%	36.53%
Klickitat	**5,068**	**3,754**
	57.44%	42.55%
Lewis	**19,654**	**11,131**
	63.84%	36.15%

Lincoln	**3,545**	**1,913**
	64.95%	35.04%
Mason	**16,002**	**8,360**
	65.68%	34.31%
Okanogan	**9,795**	**5,689**
	63.25%	36.74%
Pacific	**6,549**	**3,322**
	66.34%	33.65%
Pend Oreille	**3,958**	**1,997**
	66.46%	33.53%
Pierce	**185,586**	**112,852**
	62.18%	37.81%
San Juan	**5,082**	**4,554**
	52.73%	47.26%
Skagit	**29,953**	**20,418**
	59.46%	40.53%
Skamania	**2,960**	**1,906**
	60.83%	39.16%
Snohomish	**171,974**	**111,603**
	60.64%	39.35%
Spokane	**126,174**	**70,630**
	64.11%	35.88%
Stevens	**12,331**	**7,011**
	63.75%	36.24%

Thurston	**65,193**	**42,155**
	60.73%	39.26%
Wahkiakum	**1,525**	**592**
	72.03%	27.96%
Walla Walla	**14,133**	**7,650**
	64.88%	35.11%
Whatcom	**50,171**	**33,913**
	59.66%	40.33%
Whitman	**9,849**	**7,168**
	57.87%	42.12%
Yakima	**47,564**	**22,650**
	67.74%	32.35%
Total	**1,632,225**	**1,095,190**
	59.84%	40.15%

Results last updated on: 12/23/2004 3:52:00 PM

EXHIBIT L

ELECTION LAW IN WASHINGTON

[picture omitted]

Learn how to defend the principles and procedures underlying the democratic process.

TUESDAY, JUNE 21, 2005

Sponsored By:
The Northewst Legal Foundation
818 South Yakima Avenue, Suite 200
Tacoma, WA 98504

Approved for 6.0 CLE Credits for Washington Attorneys: 5. General CLE Credits and .75 Ethics Credit

ELECTION LAW IN WASHINGTON

Learn how to defend the principles and procedures underlying the democratic process.

SCHEDULE

8:00 a.m. – Check In • Walk-In Registration • Distribution Of Course Books • Coffee, Tea, Juice and Pastry Service

8:45 – 9:30	**INTRODUCTION TO ELECTION SYSTEMS** Professor Todd Donovan – *Professor in the Political Science Department at Western Washington University, published dozens of academic articles, including several on initiatives, and has co-authored several books. Tod's primary academic expertise is in the areas of direct democracy, election systems, and representation.*
9:30 – 10:15	ELECTION TECHNOLOGIES AND MECHANICS Ms. Pat McCarthy – *Elected Pierce County auditor 2003 to Present. Certified Elections/ Registration Administrator-Auburn University-August 2002 Legislative Co-Chair of Washington State Association of County Auditors*
10:15 – 10:30	Break
10:30 – 11:15	UPDATE ON HAVA AND OTHER FEDERAL ELECTION LAWS Mr. Nick Handy – *Current Director of Elections in the Office of Secretary of State. Appointed in May 2004, Mr. Handy served as Elections Director through the 2004 general election. Mr. Handy is an attorney with thirty years experience working in state and local government, including fourteen years in the Washington State Attorney General's Office where he served as Deputy Attorney General.*

11:15 – 12:00	UPDATE ON WASHINGTON STATE ELECTION LAWS Ms. Katie Blinn – *Assistant Director of Elections for the Office of the Secretary of State and oversees the Secretary of State's Certification and Training Program. Prior to coming to the Secretary of State's office, Katie worked for four years as nonpartisan staff counsel at the Washington State House of Representatives and the Pierce County Prosecutor's Office.*
12:00 – 1:15	Lunch On Your Own
1:15 – 2:00	ELECTION ETHICS Professor John Strait – *Associate Professor of Law, Seattle University School of Law – graduate of Yale Law School; has taught, researched and written in the field of professional responsibility and legal malpractice since 1976.*
2:00 – 2:45	POLITICAL PARTIES: THEIR LEGAL ROLE IN ELECTIONS Mr. John White – *Principal at the Kirkland law firm, Livengood, Fitzgerald & Alskog, PLLC. He is outside general counsel to the Washington State Republican Party, and has represented individuals and organizations in connection with election and campaign finance law since the early 1990s. His practice focuses primarily on business, tax and estate planning matters.*
2:45 – 3:00	Break
3:00 – 3:45	ELECTION CONTESTS AND RECALLS Mr. David McDonald – *Senior litigation partner at Preston Gates & Ellis in Seattle, WA. Since 1992, he has represented the State of Washington at the Democratic national Committee. Since January 7, 2005, he has also served as the Contest Manager for the Washington State Democratic Party.*

3:45 – 4:30	PANEL DISCUSSION – RESTORING VOTER CONFIDENCE IN PUBLIC ELECTIONS or "ARE ELECTIONS TOO IMPORTANT TO LEAVE TO ELECTIONS OFFICIALS?" Prof. Todd Donovan • Mr. Nick Handy • Mr. David McDonald • Mr. John White Other panelists may participate.
4:30 pm	Complete Evaluation Forms - Adjorn

[1]

Political Parties: Their Legal Role in Elections

By Richard Derham and John White[1]

I Political Parties and Representative Democracy

> Representative democracy in any populous unit of governance is unimaginable without the ability of citizens to band together in promoting among the electorate candidates who espouse their political views. [2]

Modern style political parties are, like the nation itself, largely the creation of the men who framed our constitution. As the Supreme Court statement quoted above notes, political parties organized around ideas and philosophy are essential to representative government.

It was not always so. James Madison's warning about the dangers of faction[3] grew out of the 16th and 17th Century English experience, replicated in some colonies, where narrow interests, frequently of the job-seeking variety, become the dominant factor

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[1] Mr. Derham is retired from Davis Wright Tremaine, where he practiced for 30 years. He served as legal counsel, Washington State Republican Party, 1976-1983.1992-1996, and as Chairman, King County Republican Central Committee, 1991-92.

Mr. White is a principal with the Kirkland firm Livengood, Fitzgerald & Alskog, PLLC. The has served as general counsel to the Washington state Republican Party since 1997, and as counsel to the King County Republican Central Committee (1991-1996). His practice includes representing individuals and

organizations on election and campaign finance law matters. The opinions expressed herein are personal and do not represent the views of anyone but the authors.

The authors express appreciation to Richard Shepard for his assistance in researching the law relating to third parties.

[2] California Democratic Party v Jones, 530 U. S. 567, 574 (2000).

[3] Federalist Papers, Number 10.

* * *

[24]

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4. Implications for a "Top Two" System.

Voters in Washington State in 2004, by passing Initiative 872, enacted a enacted a two-stage election with a "winnowing" primary under which all candidates who file would appear on the ballot in the first stage and a run-off between the top two in the second stage.[105] A combination of apparently muddled drafting and indifference to the constitutional limitations of state regulation of partisan activities has left the fate of Initiative 872 in doubt. On May 19, the Washington State Republican party filed suit in the U.S. District Court seeking to have the act declared unconstitutional[106]. The Libertarian and Democratic Parties immediately filed to intervene in support of the Republican Party's claims.[107] A motion for preliminary injunction was lodged on May 26 for the court's June 10th motion calendar.

a. The positions of the Parties.

The Republican, Democratic and Libertarian Parties all contend that their constitutional rights either prevent the state from conducting a "top two" primary or allow their members to join together in any manner prescribed by their party rules to select their nominee. Each party has rules in place and is in the process of nominating candidates authorized to use its name in the 2005 partisan elections. While other candidates may file as independents, it is the parties' contention that each political party may determine which candidate may use the party designation on the ballot, and that any other result would allow a candidate to appropriate the party's name regardless of whether the party desires to associate with that candidate.

While Washington' Secretary of State has asserted that nothing in state election law interferes with a party's decision to have a "nominating convention," and to give financial support to a candidate of its choice, he asserts that the party has no right to control the use of its name on the ballot. The Supreme Court had previously rejected a similar argument:

> The ability of the party leadership to endorse a candidate is simply no substitute for the party members' ability to choose their own nominee.[108]

Indeed, as the long line of cases discussed above have demonstrated, a political party's right to control use of its name on the ballot is not only established, it is fundamental:

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[105] Ch. 2,Laws of 2005.

[106] Mr. White serves as counsel for plaintiff in this case.

[107] Washington State Republican Party v Logan, et al, Cause Number CV05-0927, U.S. District Court for the Western District of Washington.

[108] California Democratic Party v. Jones, 530 U. S. 567, 580 (2000).

EXHIBIT P

[The King County Democrat logo/header omitted]

OFFICIAL CALL
KCDCC—2005 Nominating Convention
Tuesday June 28, 2005—7:00 pm
Registration opens at 6:00 pm -- $10.00/person registration donation
Bellevue Community College gymnasium—3300 Landerholm Circle SE--Bellevue

Proposed Agenda

- Call to Order
- Flag Statute
- Welcome and Introductions
- Appointment of Secretary, Parliamentarian, Sergeant-At-Arms, Tally Committee, Timer
- Acceptance of Agenda
- Convention Rules Report
- Acceptance of Rules
- First Credential Report
- Nominations open for King County Executive (all eligible PCOs to vote)
- Five minutes of time for each candidate
- Second Credential Report
- Voting on King County Executive Candidates
- Tally and Results
- Five Minute Break

- Break into Nine King County Council Districts (badges to have Council District Number. Precinct, and Number of Delegate Votes printed along with Name)
    - King County Officers will convene the nine potential sessions
    - Appoint: Secretary, Parliamentarian, Sgt.-At-Arms, Timer, and Tally Committee
    - Rules Report
    - Credential Report
    - Nominations including five minutes of time for each candidate
    - Voting
    - Tally and Results
- Five Minute Break
- Return to General Session to report results of district voting
- Ballots and minutes will be returned to the Chair for safekeeping
- Good of the order
- Adjourn

MAKE YOUR VOICE HEARD!

Use your voice in the election of your Democratic party Candidate.

How will we elect the Democratic Party candidates in 2005?

The U.S. courts have ruled that the right of political parties to choose their nominees is protected by the U.S. Constitution. The Republican, Libertarian and Democratic Parties are challenging the top-two primary system that was passed by initiative in November as unconstitutional. If the courts do not agree that this top-two system is unconstitutional, the political parties have each set up rules to nominate their own candidates for partisan offices. (For complete rules of the 2005 Democratic Party nominating process visit www.kcdems.org or call 206-622-9157.

The County Democratic Party organizations will be holding nominating conventions in May and June to nominate their candidates for partisan offices that will appear on the September primary ballot. The elected and appointed Precinct Committee Officers (PCOs) will meet to elect their nominees for the Districts they live in. The candidate nominated will be placed on the primary ballot with the Democratic symbol beside their name. No other candidate will be able to run as the Democratic Party candidate.

This process will be in place for partisan offices only and will likely change in 2006 depending on action by the legislature or the courts.

How does my voice get heard in the nomination process?

The Democratic Party wants Democrats to get involved. We actually have a more open process than the Republicans. The Democratic Party will be using our Precinct Committee Officers, which are elected by their neighbors every even-numbered year. The Republicans will be using the caucus style system, which is highly Party-driven on the Republican side and limited in the number of people who are allowed to participate. You can get involved in the Democratic party nominating process two ways:

1) Become a Precinct Committee Officer. May 27, 2005, close of the business day, was the deadline for becoming an appointed PCO. All elected and appointed PCOs will have voice and voting rights at the convention.

2) If you did not want to become a PCO you may contact your neighborhood PCO and let them know what Democratic candidate you want to be nominated. This is the most direct form of citizen democracy there is. If your precinct does not have a PCO then contact the one closest to you. The PCOs that are elected and appointed will be seeking your input as well.

As the Democratic Party, we strive year-round to make sure that the rights of citizens to elect their representatives are protected at all levels. We know that this process will not appeal to some; however, we must continue to protect the first amendment

rights of the voters we represent. You can have a say and we want you to have a say!

Please contact your Democratic party officials if you have any questions – see page 5 of this publication.

page 2

Operating rules

for the King County Democratic Nominating Convention

Bellevue Community College Gymnasium—3300 Landerholm Circle SE—Bellevue

(see www.kcdems.org for directions and bus routes)

June 28, 2005—7:00 pm

(Adopted by the KCDCC Executive Board – May 24, 2005)

General

Only Democratic Precinct Officers elected on September 21, 2004, and those Precinct Committee Officers appointed by the King County Democratic Chair by May 27, 2005, may participate in any voting or nominating of candidates. Nominations shall not occur prior to 7:15 p.m.

Any challenges to a Precinct Committee Officer's eligibility to participate must be made in writing to the King County Democratic Chair no later than 6:00 p.m. on June 27, 2005. The Credentials Committee shall review and rule on all challenges.

During the counting of ballots by the tally committee, candidates in those races where ballots are being counted may appoint one observer. The candidate must notify the permanent chair of that particular meeting who their official observer is prior to the counting of the ballots by the tally committee.

In a position where only one candidate has been nominated, that position may be voted on by acclamation.

A PCO's vote shall be weighted, based on the 2000 Presidential results.

All ballots are public record and shall be in the possession of the King County Democratic Chair.

Proxy votes are not allowed.

No other business outside of the nominating of candidates shall take place at the nominating convention.

Any motion to modify or suspend these rules shall be out of order.

Executive

The Chair of the King County Democratic Party shall serve as permanent chair during the King County Executive nominating process. The Chair shall appoint a secretary, parliamentarian, sergeant-at-arms, credentials chair and committee, and tally committee chair and committee. The Chair shall take nominations from the floor. Each nomination requires a second. The nomination and seconding of a candidate shall not count against any time limit.

Candidates shall have up to five minutes to present their candidacy. This can include testimonials from other individuals. The order of presentations shall be in the order nominations were taken.

At conclusion of all presentations, up to ten minutes of questions shall be taken from the floor. All questions must be directed to all candidates. Candidates shall have up to one minute to respond to questions.

All eligible precinct committee officers must sign their ballots. Ballots must be cast for one candidate only and cannot be split.

Abstentions are in order, but shall not count towards the vote totals. Non-signed ballots shall be considered a spoiled ballot and not count toward the vote totals.

A simple majority of votes is needed. If a majority is not obtained by a candidate on the first ballot, the candidate with the least amount of votes shall be dropped, and voting shall take place again. This method will continue to take place until a candidate receives a majority of the vote. In the event that only two candidates remain and tie occurs, the tie shall be broken by lot by the remaining candidates.

Upon the nomination of the Executive, the Chair will direct the Precinct Committee Officers to convene by County Council District in which they were elected or appointed.

County Council

The Chair of the King County Democratic Party shall appoint a permanent Chair for each of the nine county Council nominating meetings. The permanent Chair of the County Council nominating meeting shall appoint a secretary, parliamentarian, and a tally chair and committee.

The permanent Chair shall take nominations from the floor. Each nomination requires a second. The nomination and seconding of a candidate shall not count against any time limit.

Candidates shall have up to five minutes to present their candidacy. This can include testimonials from other individuals. The order of presentations shall be in the order nominations were taken.

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Upon the nomination of the County Council position, the permanent Chair will immediately report to the King County Democratic Chair the results.

Page 3

[The King County Democrat logo/header omitted]

[advertising omitted]

King County Democratic Central Committee Officers

Elected Position	*First name*	*Last Name*	*e-mail* [omitted]
Chair	Susan	Sheary	
First Vice-Chair	Rob	Dolin	
Second Vice-Chair	Marle	Yamamoto	
Third Vice-Chair	Sharon	Mast	
Fourth Vice-Chair	Gurine	Nordby	
State Committeeman	Javier	Valdez	
State Committeewoman	Pat	Taylor	
Treasurer	Chuck	Laney	
Appointments accepted at re-organization 12/4/04			
Recording Secretary	Angela	Henry	
Leg Action Comm	Tina	Shamseldin	
Platform/By-laws	Joel	Ware	
Program Chair	Jean	Amos	
Sergeant-at-Arms	Juan	Martinez	
Parliamentarians/Attys	Paul	Schneiderman	
	Robert	Gaudent	
Independent Audit	Jenson	Hagen	

Candidate Recruitment	Judith Baker Hine
Endorsements	Linnea Peterson

Officers Named to Conduct King County Council District Sessions At 2005 Nominating Convention

The following KCDCC Officers will conduct the nine council nominating sessions at the King County Democrats Nominating Convention on Tuesday June 28, 2005, 7:00 pm.

District 1	Javier Valdez
District 2	Gurine Nordby
District 3	Pat Taylor

District 4	Rob Dolin	[picture omitted]
District 5	Chuck Laney	
District 6	Sharon Mast	
District 7	Susan Sheary	
District 8	Marie Yamamoto	
District 9	Angela Henry	

Javier Valdez will also lead the Credentials Committee, Alec Stephens will serve as Parliamentarian, Sgt-At-Arms, Angela Henry will serve as secretary, and Steven Smith will be in charge of the Tally Committee. Chair of the 36th District LD, Peter House will head the welcome committee.

Page 4

LEGISLATIVE DISTRICT INFORMATION

1st LD
Chair: Jeff Wiley, 425.778.4808
Meets 1st Thursday, 7:00 pm
Northshore Shool Admin
18335 Bothell Way NE, Bothell

5th LD
Chair: Kayne McGladrey,
425.894.5298
Meets 3rd Wednesday, 7:00 pm
Kinig County library Admin
960 Newport Way NW, Issaquah

11th LD
Chair: Edward Prince,
206.246.8747
Meets 3rd Tuesday, 7:00 pm
Carpenters Hall
231 Burnett North, Renton

30th LD
Chair: Larry Jackson,
253.661.2287
Meets 1st Wednesday, 7:00 pm
Federal Way Senior Center
4016 South 352nd St, Federal Way

31st LD
Chair: Tim Pearson
253.863.4543
Meets 4th Wednesday, 7:00 pm
Sumner Library
1116 Fryer Avenue, Sumner

32nd LD
Chair: Lila Smith, 206.818.1195
Meets: 2nd Wednesday, 7:00 pm
American Legion Hall
14521 17th AVE NE, Shoreline

36th LD
Chair: Peter House, 206784.7665
Meets 3rd Thursday, 7:30 pm
See website for locations

37th LD
Chair: Gwen Rench,
206.324.2786
Meets: 2nd Monday, 7:30 pm
Central Area Senior Center
500 30th Ave S., Seattle

41st LD
Chair: Barbara Geller,
206.232.4970
Meets 3rd Wednesday, 7:30 pm
UFCW Hall
12838 SE 40th, Factoria

43rd LD
Chair: Richard Kelley,
206.522.2735
Meets 3rd Tuesday, 7:30 pm
University Baptist Church
NE 47th and 12th Ave NE,
Seattle

45th LD
Chair. Ralph Corin,
425.556.5789
Meets 1st Wednesday, 7:00 pm
United Methodist Church
16540 NE 80th St, Redmond

46th LD
Chair: Scott White,
206.363.9522
Meets 3rd Thursday, 7:30 pm
Olympic View Elementary School
425 N 95th St, Seattle

33rd LD
Chair: Tara Jo Heinecke, 206.870.8819
Meets 3rd Monday, 7:00 pm
Normandy Park Congregational Church
19247 1st Ave S, Normandy Park

34th LD
Chair: Ivan Weiss, 206.463.4647
Meets 2nd Wednesday, 7:30 pm
The Hall at Fauntleroy
9131 California Ave SW, Seattle

47th LD
Chair: Bryan Kesterson, 253.639.3515
Meets 1st Wednesday, 7:00 pm
Machinists Hall
A St SW at 2nd St SW, Auburn

48th LD
Chair: Benjamin Von Ullrich, 206.979.9073
Meets 3rd Wednesday, 7:00 pm
Stevenson Elementary School Library
14220 NE 8th, Bellevue

KCDCC TREASURY
Cum-t-Date, May 31, 2005 (source: MS Money Manager)

INCOME	
Call for Membership/Incom	$11,197.70
District Donations	6,663.21
Elected Officials	6,850.00
Honors Banquet	13,029.00
Nominating Convention Sponsorship	610.00
Other Events	2,015.82
Refund (Old Postage Due Account and Rent Deposits)	852.59
TOTAL INCOME	$41,218.32
EXPENSE	
Advertising	$30.00
Bank Charges	484.85
Dell computer	996.89
C.N.A.—Liability Insurance	930.00
Membership Fees	100.00
Online / Internet Design and Services	1,400.00
Phone / FAX / Internet	844.03
Rent	2,664.00
Call for Membership	524.23
Consulting / Contract Work	7,450.00
Honors Banquet	8,739.53
Licenses and Fees	10.00
Maps / Research	6,850.00
Miscellaneous	40.00

Newsletter	813.43
Office Supplies	1,269.81
Other Events	4,872.81
Other Supplies	312.09
Postage—New Postage Due Account	100.00
Storage of File (paid through 7/12/2005)	100.00
Translation Service (Brochure in Spanish)	133.28
TOTAL EXPENSE	$38,664.95
BALANCE on 5/31/2005	$2,553.37

EXHIBIT Q

[Libertarian Party web page header omitted]

By Laws

Bylaws: Libertarian party of West King County
As amended on January 11, 2001

Article I: Identify and Purpose

A. The name of this organization is the Libertarian Party of West King County, hereinafter referred to as "the Party" – a regional affiliate of the Libertarian party of Washington State, hereinafter referred to as "the LPWS."

B. The LPWS Statement of Principles affirms the philosophy upon which the Libertarian party is founded: The purpose of the Party is to proclaim and implement the LPWS Statement of Principles by:

a. Nominating, endorsing and running candidates for office in the region, and

b. Entering into political information and educational activities.

c. Promoting local organizations, political and/or social, below the regional level.

The controlling document of the Party is these Party Bylaws. Authority for all matters not specifically addressed by the Party Bylaws will be Robert's Rules of Order.

Article II: Definitions

A. General Business Meetings. All attending Party Members may vote. General Business Meetings are required for interim election of officers, interim amendments to these Bylaws, or other purposes determined by the Chair.

B. Board Meetings. Open meetings for conducting Central Committee business. All attending party Officials may vote. May occur in conjunction with Supper Club events or separately, as called by the Chair.

C. Required Meeting Notices. For General business Meetings and Conventions: minimum 30 days prior notice via state and/or regional newsletter, email and web site announcements. For all other open meetings, including Board Meetings: 14 days prior notice via email and web site. Email is the equivalent of postal mail.

Article III: Membership

Voting membership in the regional Party consists of all current dues-paying LPWS members who reside within the geographic boundaries of this regional party.

Article IV: Central Committee

A. All powers of management and administration reside in the Central Committee. The Central Committee will include up to eight (8) voting members elected by the Party membership – four (4) party officers and four (4) Directors. Directors are also Committee Chairs for the defined responsibility.

B. The Central Committee will convene in open board meetings, at least four times per year. A quorum will consist of at least half the current number of elected Party Officials. General business Meetings are required for (a) interim election of Party Official (s); or (b) proposed amendment(s) to these Bylaws.

Article V: Party Officials

A. There will be four (4) Party officers: Regional Chair, Vice-Chair, Secretary, and Treasurer. If the position of Regional Chair becomes vacant, the line of succession will follow the order listed in this Section.

B. There will be up to four (4) Directors, accountable directly to the membership: Supper Club Director, Membership Director, Communications Director, and Campaigns Director.

C. Officials will be elected by a majority of Party members attending the Party convention. Officials will be elected individually, in the order designated in Section A of this Article. Terms of office will commence immediately upon adjournment, will run until the next annual convention. Only members of the state and regional Parties are eligible to serve as Officials. Officers and Directors may be removed by a 3/5 vote of the Central Committee.

D. The Central Committee may allocate expense budgets for the responsibility of, and the control by, individual Officers and Directors. Officers and Directors may not exceed their budgeted expenses without majority approval by the Central Committee.

E. The duties of each Officer and Director will be as follows:

- The Regional Chair will preside at all Party meetings, and act as CEO of the Party. The Chair may appoint non-officer positions such as Office Manager, Database Manager, Archives Manager, or non-voting Committee

Chairs for such functions as Fundraising, Convention Organizing, etc. If a Directorship is vacant, the Chair may appoint an interim Chair for the committee, however only elected Directors may vote on the Central Committee.

- The Vice Chair will preside at party meetings in the absence of the Regional Chair. The Vice-Chair will also be responsible for keeping abreast of, and fulfilling, current requirements to maintain certification by the State Party – as defined in the LPWS Constitution and Bylaws.
- The Secretary will record and maintain Minutes of party meetings and conventions, and be a signing officer for Party documents.
- The Treasurer will maintain the Party's bank accounts, deposit all revenues, and pay all bills. A formal Treasurer's Report will be presented at least once per calendar quarter.
- The Communications Director (Chair) is responsible for a Member Newsletter, Advertising, Public Relations and a regional Web Site – as and if the Central Committee authorizes and budgets each activity.
- The Campaigns Director (Chair) will recruit candidates and campaign teams for elected office, coordinate campaigns and volunteers where possible, and encourage members to seek appointed office.
- The Membership Director (Chair) will coordinate membership recruiting and retention with both the state and national

parties, and provide local Welcome/ Orientation to new members.

Article V: Supper Club Committee

A. The Supper Club Committee will consist of no more than three members, elected directly by members at any supper club meeting, responsible for monthly dinner/speaker meetings at the regional level. The Committee will elect its own Chair (Director). This Article may be amended only at a Supper Club meeting.

B. The Supper Club Mission is to conduct political outreach on issues affecting both economic and civil liberties, at primarily the state and local levels, both on-site and through print and broadcast media.

Article VI: Representative, State Central Committee

A. The regional Party will elect Regional Representative(s) to the State Central Committee, of sufficient number as permitted by LPWS Bylaws. All candidates who accept nomination to Regional Representative will be considered elected as either a Representative or an Alternate, based on the ranked order of votes received.

B. To assure full representation at meetings of the State Central Committee, the Chair may appoint temporary Regional Representatives or Alternates to vacant positions, for later approval by the membership.

Article VII: Annual Conventions

A. The Party will hold its Convention in January of each year, or by no later than June 30, for electing

Officers, Directors and Regional Representatives; amending bylaws; and nominating or endorsing candidates. A separate convention may be called, for nominations and/or endorsements.

B. Voting delegates will have been members of the Party for at least 60 days before the Convention date.

Article VIII. Amendments

These bylaws may be amended by a simple majority vote at Party conventions, or by a 3/5 majority at any general business meeting. The complete text of all proposed amendments must be provided, and/or made available by request, as part of the required 30-day prior notice.

EXHIBIT R

HELP US COUNT EVERY VOTE!

We need your help. With your contribution, you can help the Washington State Democrats fight for Democratic principles. We will use your contribution to (1) fight Rosse's attempts to undermine the electoral process, (2) reelect Maria Cantwell, (3) maintain the Democratic majority in state government, and (4) continue the overall momentum of Democrats in the state. Thank you!

Contact Information

Title: First Name: MI: Last Name:

Address 1:

Address 2:

City: State: Zip Code:

WA

Home Phone: Email:

( )

Employer: Occupation:

Membership Levels

I wish to donate to one of the following membership levels:

O $1000 Leadership Circle
O $520 Chairman's Club
O $365 Victory Club
O $240 Capitol Club
O $120 Cascade Club

Make a Contribution

If you would like to contribute an amount different from the membership levels, please type in the specified amount here. If you selected a membership level, this will be added to that amount.

O $60 Evergreen Club Amount:
O $36 Washington Club $

Payment Method

Please charge my donation to my Credit Card

O Visa O Mastercard

Credit Card Number: Security Code:

Expiration Date: Card Holder Name:

(mmyy) (e.g. John Q. Public)

Federal Election Law Requirements

☐ I confirm that the following statements are true and accurate:

- I am a United States citizen or a permanent resident alien.
- This contribution is not made from the general treasury funds of a corporation, labor organization or national bank.
- This contribution is not made from the treasury of an entity or person who is a federal contractor.
- The funds I am donating are not being provided to me by another person or entity for the purpose of making this contribution.
- I am at least 18 years old, or the funds I am donating are my own personal funds and I am donating these funds knowingly and voluntarily.

Federal Election law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose

contributions aggregate in excess of $200 in a calendar year. Your contribution will be used in connection with Federal elections and is subject to the limits and prohibitions of the Federal Election Campaign Act.

Your contribution is not tax-deductible as a charitable contribution for Federal Income tax purposes.

Submit Your Contribution [button] Reset [button]

(This will send your information to a secure processing page.)

NOTE:

While you are currently accessing this page over a regular Internet connection, when the page submits your information it will do so via a secure connection.

EXHIBIT S

Join the Libertarian Party Today!

To become a dues-paying member of the Washington state and national Libertarian Parties, fill in and return this form together with $25. You will also receive *LP News* and *Washington Libertarian*.

Name_____

Address_____

City_____State_____Zip_____

Phone (home)_____(work)_____

E-mail address_____

Employer_____Occupation_____

The Libertarian Party is the party of principle. To publicly affirm what we believe – and to ensure that our party never strays from our principles – we ask our members to proudly sign this statement:

I certify that I do not believe in or advocate the initiation of force as a means of achieving political or social goals.

_____

(signature required for membership only)

Please enclose a check or money order (no corporate checks please) for $25 payable to "Libertarian Party", or provide the following information to authorize billing to your credit card:

[ ] Visa [ ] MasterCard

Account #_____Exp. Date_____

Signature_____

(signature for credit card payment)

Send this form and payment to:

Libertarian Party
2600 Virginia Avenue NW
Washington, DC 20037

(Government Mandated Notices: The Federal Election Commission requires political committees to report the name, mailing address, and occupation and name of employer to each individual whose contributions aggregate in excess of $200 in a calendar year. The IRS requires us to print "contributions are not tax-deductible" on all fundraising appeals.)

LPWS Home Page

EXHIBIT T

[NARAL web page header omitted]

[extraneous information omitted]

[list appears twice in declaration; listed only once here]

1st District
Sen: Rosemary McAuliffe (D) PRO
Reps:Al O'Brien (D) MIXED +
Mark Ericks (D) PRO

2nd District
Sen: Marilyn Rasmussen (D) MIXED
Reps: Jim McCune (R) UNKNOWN
Tom Campbell (R) ANTI

3rd District
Sen: Lisa Brown (D) PRO
Reps: Alex Wood (D) PRO
Timm Ormsby (D) UNKNOWN

4th District
Sen: Bob McCaslin (R) ANTI
Reps: Larry Crouse (R) ANTI
Lynn Schindler (R) ANTI

5th District
Sen: Cheryl Pflug (R) ANTI
Reps: Jay Rodne (R) UNKNOWN
Glenn Anderson (R) MIXED +

6th District
Sen: Brad Benson (R) ANTI
Reps: John Serben (R) UNKNOWN
John Ahern (R) ANTI

7th District
Sen: Bob Morton (R) ANTI
Reps: Bob Sump (R) ANTI
Joel Kretz (R) UNKNOWN

8th District
Sen: Jerome Delvin (R) ANTI
Reps: Shirley Hankins (R) PRO
Larry Haler (R) UNKNOWN

9th District
Sen: Mark G. Schoesler (R) ANTI
Reps: Don Cox (R) ANTI
David Buri (R) UNKNOWN

10th District
Sen: Mary M. Haugen (D) PRO
Reps: Chris Strow (R) UKNOWN
Barbara Bailey (R) ANTI

11th District
Sen: Margarita Prentice (D) PRO
Reps: Zack Hudgins (D) PRO
Bob Hasegawa (D) PRO

12th District
Sen: Linda Evans Parlette (R) MIXED –
Reps: Cary Condotta (R) UNKNOWN
Mike Armstrong (R) UNKNOWN

13th District
Sen: Joyce Muliken (R) ANTI
Reps: Jan'ea Holmquist (R) UNKNOWN
Bill Hinkle (R) UNKNOWN

14th District
Sen: Alex Deccio (R) ANTI
Reps: Mary Skinner (R) MIXED +
James Clements (R) ANTI

15th District
Sen: Jim Honeyford (R) ANTI
Reps: Bruce Chandler (R) ANTI
Dan Newhouse (R) UNKNOWN

16th District
Sen: Mike Hewitt (R) UNKNOWN
Reps: Maureen Walsh (R) UNKNOWN
Bill Grant (D) PRO

17th District
Sen: Don Benton (R) ANTI
Reps: Jimm Dunn (R) UNKNOWN
Deb Wallace (D) PRO

18th District
Sen: Joseph Zarelli (R) ANTI
Reps: Richard Curtis (R) UNKNOWN
Ed Orcutt (R) UNKNOWN

19th District
Sen: Mark L. Doumit (D) ANTI
Reps: Dean Takko (D) UNKNOWN
Brian Blake (D) PRO

20th District
Sen: Dan Swecker (R) ANTI
Reps: Richard DeBolt (R) ANTI
Gary Alexander (R) MIXED +

21st District
Sen: Paull H. Shin (D) PRO
Reps: Mary Helen Roberts (D) PRO
Brian Sullivan (D) PRO

22nd District
Sen: Karen Fraser (D) PRO
Reps: Brendan Williams (D) PRO
Sam Hunt (D) PRO

23rd District
Sen: Phil Rockefeller (D) PRO
Reps: Sherry Appleton (D) PRO
Beverly Woods (R) ANTI

24th District
Sen: Jim Hargrove (D) ANTI
Reps: Jim Buck (R) ANTI
Lynn Kessler (D) PRO

25th District
Sen: Jim Kastama (D) MIXED +
Reps: Joyce McDonald (R) ANTI
Dawn Morrell (D) PRO

26th District
Sen: Bob Oke (R) ANTI
Reps: Patricia Lantz (D) PRO
Derek Kilmer (D) PRO

27th District
Sen: Debbie Regala (D) PRO
Reps: Dennis Flannigan (D) PRO
Jeanine Darneille (D) PRO

28th District
Sen: Mike Carrell (R) ANTI
Reps: Gigi Talcott (R) ANTI
Tami Green (D) PRO

29th District
Sen: Rosa Franklin (D) PRO
Reps: Steve Conway (D) PRO
Steve Kirby (D) PRO

30th District
Sen: Tracey J. Eide (D) PRO
Reps: Mark Miloscia (D) ANTI
Skip Priest (R) ANTI

31st District
Sen: Pam Roach (R) ANTI
Reps: Dan roach (R) ANTI
Jan Shabro (R) UNKNOWN

32nd District
Sen: Darlene Fairley (D) PRO
Reps: Maralyn Chase (D) PRO
Ruth Kagi (D) PRO

33rd District
Sen: Karen Keiser (D) PRO
Reps: Shay Schual-Berke (D) PRO
Dave Upthegrove (D) PRO

34th District
Sen: Erik Poulsen (D) PRO
Reps: Eileen Cody (D) PRO
Joe McDermott (D) PRO

35th District
Sen: Timothy Sheldon (D) MIXED
Reps: Kathy Haigh (D) PRO
Bill Eickmeyer (D) PRO

36th District
Sen: Jeanne Kohl-Welles (D) PRO
Reps: Helen Sommers (D) PRO
Mary Lou Dickerson (D) PRO

37th District
Sen: Adam Kline (D) PRO
Reps: Sharon Tomiko Santos (D) PRO
Eric Pettigrew (D) PRO

38th District
Sen: Jean Berkey (D) PRO
Reps: John McCoy (D) PRO
Mike Sells (D) PRO

39th District
Sen: Val Stevens (R) ANTI
Reps: Dan Kristiansen (R) ANTI
Kirk Pearson (R) ANTI

40th District
Sen: Harriet A. Spanel (D) PRO
Reps: Dave Quall (D) MIXED +
Jeff Morris (D) MIXED +

41st District
Sen: Brian Weinstein (D) PRO
Reps: Fred Jarrett (R) PRO
Judy Clibborn (D) PRO

42nd District
Sen: Dale Brandland (D) MIXED +
Reps: Doug Ericksen (R) ANTI
Kelli Linville (D) PRO

43rd District
Sen: Pat Thibaudeau (D) PRO
Reps: Edward B. Murray (D) PRO
Frank Chopp (D) PRO

44th District
Sen: Dave Schmidt (R) ANTI
Reps: Hans Dunshee (D) PRO
John Lovick (D) PRO

45th District
Sen: Bill Finkbeiner (R) MIXED
Reps: Toby Nixon (R) ANTI
Larry Springer (D) PRO

46th District
Sen: Ken Jacobsen (D) PRO
Reps: Jim McIntire (D) PRO
Phyllis Gutierrez Kenney (D) PRO

47th District
Sen: Stephen L. Johnson (R) ANTI
Rep: Geoff Simpson (D) PRO
Pat Sullivan (D) PRO

48th District
Sen: Luke Esser (R) ANTI
Reps: Ross Hunter (D) PRO
Rodney Tom (R) MIXED +

49th District
Sen: Craig Pridemore (D) PRO
Reps: Bill Fromhold (D) PRO
Jim Moeller (D) PRO

[NARAL web page header omitted]

[extraneous information omitted]

BILLS TO WATCH

OPPOSED BILLS	BILL NUMBER	STATUS
Establishing parental notification requirement for abortion (-) Companion Bill: HB 1433	SB 5821	Feb 8 First reading, referred to Health & Long-Term care
Prohibiting nonphysicians from performing abortions. (-) Finds that the medical risks to the health of women as a result of obtaining an abortion makes it necessary to clarify that only qualified health care prersonnel may perform abortions or assist in performing abortions.	HB 1774	Feb 4 First reading, referred to Health Care
Prohibiting partial birth abortions (-)	HB 1562	Jan 28 First reading, referred to Health care
Prohibiting public funding of abortion (-) Prevents all use of public funding for abortions except for extremely life-threatening situations. Companion Bill: HB 1776	SB 5852	Feb 10 First reading, referred to Health & Long-Term Care
Prohibiting the sale of fetal body parts. (-) Would prohibit fetal tissues from being sold, used, or donated in any way whatsoever (including medical research or procedures), and are **required** to be buried or cremated.	HB 1563	
Regarding health care provider right of conscience.	SB 5851	Feb 10 First reading, referred to Health & Long-Term Care.

(-)
Would allow doctors or health care personnel to claim a procedure or service to be "against their conscience", and thus be immune to any liabilities or punishments resulting from their refusal to perform it.

Additionally, it would be illegal for hospitals or clinics to discriminate between prospective employees based on the procedures or services they refuse to perform.

Companion Bill: HB 1654

Requiring a report of pregnancy termination be provided to birth mother and biological father and kept by department of health	SB 5836	Feb 9 First reading, referred to Health & Long-Term Care

(-)
Requires all hospitals and lawful abortion clinics to report all details of every abortion, every patient's history, every patient's personal information, etc. to the department of health.

Requires that copies are also sent to the biological mother of the patient, and biological father if possible.

Requiring notice of breast cancer risks related to abortion -SB	SB5820	Feb 8: First reading, referred to Health & Long-Term Care

(-)
Would make it unlawful to provide an abortion without informing the patient of any and all possible research which may arise linking abortion to breast cancer.

Effectively makes parental consent required for abortions for minors.

Makes it illegal for a person to perform an abortion unless they have enough insurance to cover any potential lawsuit due to "reproductive cancers".

SUPPORTED BILLS	BILL NUMBER	STATUS
Healthy Youth Act Senate Bill	SB 5306	Jan. 24: Public hearing in committee

(-)
Declares that the state has a duty to ensure that young people are equipped with the comprehensive, medically accurate, age-appropriate information that they need to protect themselves from unintended pregnancy and sexually transmitted diseases, including HIV infection. The best approach to protecting youth in this environment is to

support the resources that they trust and to ensure that young people ;have as much accurate, objective information about sexual health as possible.

The Companion Bill is HB 1282

Limiting the court's discretion concerning denial of dissolution decrees	HB 1171	Jan 18 First reading, referred to Juvenile Justice & Family Law.

(-)

Provides that, in considering a petition for dissolution, a court may not use the petitioner's pregnancy as a bsasis for denying the decree for dissolution, nor may the court continue the matter on that basis.

EXHIBIT U

[pictures have been omitted]

HOUSE OF REPRESENTATIVES

John Ahern	Spokane	District 6
Gary Alexander	Olympia	District 20
Glenn Anderson	Fall City	District 5
Mike Armstrong	Wenatchee	District 12
Barbara Bailey	Oak harbor	District 10
Jim Buck	Joyce	District 24
David Buri	Colfax	District 9
Bruce Chandler	Granger	District 15
Jim Clements	Selah	District 14
Cary Condotta	Wentachee	District 12
Don Cox	Colfax	District 9
Larry Crouse	Spokane	District 4
Richard Curtis	La Center	District 18
Richard DeBolt	Chehalis	District 20
Jim Dunn	Vancouver	District 17
Doug Ericksen	Ferndale	District 42
Larry Haler	Richland	District 8
Shirley Hankins	Richland	District 8
Bill Hinkle	Cle Elum	District 13
Janéa Holmquist	Moses Lake	District 13

Fred Jarrett	Mercer Island	District 41
Joel Kretz	Waucoada	District 7
Dan Kristiansen	Snohomish	District 39
Jim McCune	Graham	District 2
Joyce McDonald	Puyallup	District 25
Dan Newhouse	Sunnyside	District 15
Toby Nixon	Kirkland	District 45
Ed Orcutt	Kalama	District 18
Kirk Pearson	Monroe	District 39
Skip Priest	Federal Way	District 30
Dan Roach	Bonney Lake	District 31
Jay Rodne	Snoqualmie	District 5
Lynn Schindler	Spokane	District 4
John Serben	Spokane	District 6
Jan Shabro	Lake Tapps	District 31
Mary Skinner	Yakima	District 14
Chris Strow	Clinton	District 10
Bob Sump	Republic	District 7
Gigi Talcott	Tacoma	District 28
Rodney Tom	Bellevue	District 48
Maureen Walsh	Walla Walla	District 16
Beverly Woods	Kingston	District 23

EXHIBIT V

[pictures have been omitted]

SENATORS

Jean Berkey	Everett	District 38
Lisa Brown	Spokane	District 3
Mark Doumit	Cathlamet	District 19
Tracey Eide	Federal Way	District 30
Darlene Fairley	Lake Forest Park	District 32
Rosa Franklin	Tacoma	District 29
Karen Fraser	Thurston County	District 22
Jim Hargrove	Hoquiam	District 24
Mary Margaret Haugen	Camano Island	District 10
Ken Jacobsen	Seattle	District 46
Jim Kastama	Puyallup	District 25
Karen Keiser	Kent	District 33
Adam Kline	Seattle	District 37
Jeanne Kohl-Welles	Seattle	District 36
Rosemary McAuliffe	Seattle	District 1
Erik Poulsen	Seattle	District 34
Kargarita Prentice	Renton	District 11
Craig Pridemore	Vancouver	District 49
Marilyn Rasmussen	Eatonville	District 2
Debbie Regala	Tacoma	District 27
Phil Rockefeller	Kitsap County	District 23
Tim Sheldon	Potlatch	District 35

Paull Shin	Edmonds	District 21
Harriet Spanel	Bellingham	District 40
Pat Thibaudeau	Seattle	District 43
Brian Weinstein	Eastside Suburbs	District 41

THE HONORABLE THOMAS S. ZILLY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT
OF WASHINGTON AT SEATTLE

WASHINGTON STATE REPUBLICAN PARTY, et al., Plaintiffs, WASHINGTON DEMOCRATIC CENTRAL COMMITTEE, et al., Plaintiff Interveners, LIBERTARIAN PARTY OF WASHINGTON STATE, et al., Plaintiff Interveners, v. DEAN LOGAN, et al., Defendants, STATE OF WASHINGTON, et al., Defendant Interveners, WASHINGTON STATE GRANGE, et al., Defendant Interveners.	Case No: CV05-0927-TSZ WASHINGTON STATE GRANGE'S CONSOLIDATED RESPONSE TO THE SUMMARY JUDGMENT / INJUNCTION MOTIONS OF (1) THE WASHINGTON STATE REPUBLICAN PARTY; (2) THE WASHINGTON DEMOCRATIC CENTRAL COMMITTEE; & (3) THE LIBERTARIAN PARTY OF WASHINGTON STATE *["Grange's Consolidated Response"]* ***Noted for Oral Argument: 9:00 a.m., Wednesday, July 13, 2005***

* * *

[27]

membership qualifications."[39] The Libertarian Party claims the Initiative "prevents the parties from settling their differences internally."[40] And the

Democratic Party claims the Initiative "forces the political parties to adulterate their candidate selection process with nonmembers of their party."[41]

The text of Initiative 872, however, does no such thing. For example:

- *Membership.* The Democratic and Republican Parties allow you to self-designate yourself as (and become) a member by signing a check – e.g., signing a $36 check buys you a "Washington Club" membership in the Democratic Party.[42] And the Libertarian Party allows you to self-designate yourself as (and become) a member by signing a sentence that says you're non-violent.[43] Initiative 872 does nothing to change the parties' internal rules governing ***their*** membership criteria.

- *Platform.* The Democratic Party and Republican Party have opposite positions on abortion.[44] Initiative 872 does nothing to change the parties' internal rules governing ***their*** positions on issues.

- *Adherence to Party Platform.* The political parties do not currently require their members to adhere to the parties' platform. For example, the Democratic Party and Republican Party both include in their caucuses of the Washington State Legislature members who espouse positions directly at odds with the party's position on the core value issue of abortion.[45] Initiative 872 does not prohibit the parties from changing their

internal rules to exclude from membership those persons who do not espouse or adhere to ***their*** core values.

- *Nominee.* The parties are free to select whatever person they want to be ***their*** "nominees" for public office, and limit the persons making the parties' selection . . .

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[39] Republican Party S.J. Motion at 8:18-19; see also Libertarian Party S.J. Motion at 8:5-6.

[40] Libertarian Party S.J. Motion at 8:18-19.

41 Democratic Party S.J. Motion at 17:9-11.

[42] Grange Documents Dec., Ex. R (WSDCC membership form).

[43] Grange Documents Dec., Ex. S (Libertarian membership form; the sentence says: "I certify that I do not believe in or advocate the initiation of force as a means of achieving political or social goals").

[44] Grange Documents Dec., Ex. C at "Human Rights & Civil Rights" section, unnumbered Platform p.8 (Washington State **Democratic** Party 2004 Platform); Grange Documents Dec., Ex. A at p.5 (2004 Washington State **Republican** Party Platform).

[45] For example, NARAL Pro-Choice Washington identifies **Republican** State Representative Shirley Hankins and Fred Jarrett as being "PRO" [for "Pro-choice"]. Grange Documents Dec. Ex. T at pp.2 & 5 (NARAL listings). Yet the Republican Party includes representatives Hankins and Jarrett as members of the Republican House Caucus. Grange Documents Dec. Ex. U at p.2 (House Republican Caucus Members directory). Similarly, NARAL Pro-Choice Washington identifies **Democratic** State Senators Mark L. Doumit and Jim Hargrove as "ANTI" [for "Anti-choice"]. Grange Documents Dec. Ex. T at p.3 (NARAL listings). Yet the Democratic Party includes senators Doumit and Hargrove as members of the

Democratic Senate Caucus. Grange Documents Dec. Ex. V at p.1 (Senate Democratic Caucus Members directory).

* * *

[32]

* * *

C. *Stipulated Issue 3*: "If the primary system under Initiative 872 nominates political party candidates for public office, does Initiative 872 violate the first amendment by compelling a political party to associate with unaffiliated voters and members of other political parties in the selection of its nominees?"

No.

The primary system established by Initiative 872 does not compel the ***political parties*** to do anything – never mind force them to include in their internal organization any "unaffiliated" voter or "member" of some other political party.

Instead, the top-two system established by Initiative 872 allows ***the candidate*** to disclose the political party which that candidate prefers. Unlike the "blanket" and "Montana" systems that required a political party to accept the candidate who prevailed in the September primary as being that party's nominee on the November ballot, the Initiative's top-two system does not require or force any ***political party*** to do anything.

For example, if the Republican Party wants to say it has nothing to do with and does not support former State Republican Chair and Congressional

leader Jennifer Dunn's son (Reagan Dunn) for King County Counsel, it can do so. But it cannot co-opt the power of the government to secure a prior restraint against Reagan Dunn's stating to voters that the party he "prefers" is the Republicans.

* * *

[36]

As the Republican Party's lead counsel in this case has candidly explained elsewhere, Initiative 872 "enacted a two-stage election with a 'winnowing' primary under which all candidates who file would appear on the ballot in the first stage, and a run-off between the top two in the second stage."[49] The Republican Party's June submissions do not establish any constitutional "right" to always be one of the top two candidates chosen by the voters in that new top two system.

G. *Plaintiffs' Supplemental Issue 6:* "Should Initiative 872 be invalidated in its entirety?"

No.

The Initiative's allowing a candidate to disclose the political party he "prefers" is at the heart of the political parties' complaints. And the Libertarian Party succinctly identifies the allegedly offending sections of Initiative 872:

> **Section 7(3)** of I-872 expressly provides for candidates to indicate a political party "preference" when filing a declaration of candidacy and will be shown on ballots "for the information of voters." **Section 11** expressly provides

> that the candidate's party "preference" will be included in the state voter's pamphlet.

Libertarian Party S.J. Motion at 7:17-20 (emphasis added).

As explained earlier, however, this "preference" disclosure part of Initiative 872 is not unconstitutional.

Moreover, even if that "preference" part were unconstitutional, that part could be invalidated without having to nullify the entire top-two system enacted into law by the voters – for as the plaintiff Republican Party's own motion acknowledges, "in ordinary circumstances only the specific part of an enactment that is unconstitutional will be invalidated."[50]

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[49] Documents Dec., Ex. L (*Political Parties: Their Legal Role in Elections* (June 21, 2005 Election Law CLE materials by Richard Derham and John White) at p. 24, first paragraph.

[50] Republican Party S.J. Motion at 26:20-21.

[37]

The severability of a State statute presents a question of State law.[51]

And Washington State law holds that if part of a statute is unconstitutional, "only the part of [the] enactment that is constitutionally infirm will be invalidated, leaving the rest intact." *Guard v. Jackson*, 333 P.2d 544, 548, 83 Wash.App. 325 (1996) (severing part of statute that violated due process rights and upholding the remainder of statute), aff'd,

132 Wash.2d 660, 940 P.2d 642 (1997); cf. the parallel federal law, e.g., *U.S. v. Booker*, 125 S.Ct. 738, 764, 160 L.Ed.2d 621 (2005) (courts "must refrain from invalidating more of the statute than is necessary. Indeed, [courts] must retain those portions of the Act that are (1) constitutionally valid, (2) capable of functioning independently, and (3) consistent with Congress' basic objectives in enacting the statute") (internal citations & quotation marks omitted).

Washington law further holds that "a severability clause is not necessary in order to meet the severability test." *In re Parentage of CAMA*, 109 P.3d 405, 414, 154 Wash.2d 52 (2005).

Washington law accordingly does not strike down a Washington statute in its entirety "unless ... it cannot reasonably be believed that the legislative body would have passed one [part] without the other, or unless the elimination of the invalid part would render the remaining part useless to accomplish the legislative purpose." *McGowan v. State*, 60 P.3d 67, 75, 148 Wash.2d 278 (2002) (severing unconstitutional part of Section 2(1)(d) in Initiative 732, but upholding the remaining parts of that Initiative).

Washington law further holds that the legislative declaration of intent in the statute at issue can save a statute with unconstitutional provisions from being struck down in its entirety – for if the *valid* parts of the statute can still fulfill a declared intent, then the statute is severable

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[51] *Arizona Libertarian Party, Inc. v. Bayless*, 351 F.3d 1277, 1283 (9th Cir. 2003) (finding portion of primary statute unconstitutional but remanding to district court to perform severance analysis according to Arizona State law standards).

[38]

and only the *in*valid parts will be stricken. *McGowan*, 60 P.3d at 76 (relying on Initiative's intent section to determine that unconstitutional portion of Initiative 732 could be severed).

Here, Sections 1 & 2 of Initiative 872 express the Initiative's intent. Those Sections declare an intent of the Initiative to allow each *voter* to chose from among all declared candidates in the primary to winnow the list of candidates on the November ballot down to two, while maintaining each *voter's* right to keep his or her personal politics absolutely secret.

Those purposes can be served even if this Court strikes down the allegedly unconstitutional part of the Initiative that allows *candidates* to disclose the political party (if any) they prefer. Thus, if this Court agrees with the plaintiffs' arguments that it is unconstitutional for Initiative 872 to allow a candidate to state that he or she "prefers" a particular political party without that party granting the candidate permission to make that statement, then Washington law requires this Court to invalidate only that "preference" part of the Initiative instead of striking down the People's enactment in its entirety.[52]

H. *The Republican Party's Preliminary Injunction Motion:* Do the Republican Party's submissions prove that this federal court should write a new law for the State of Washington's upcoming 2005 primary?

Departing from its core value of opposing judicial activism by the federal courts, the Republican Party demands that this federal Court invalidate the top-two election system established by Initiative 872, and then effectively re-enact the prior "Montana" system after severing out and invalidating the parts of that system that the Republican Party claims are equally unconstitutional.

Even if the political parties' June motions had established that Initiative 872 is facially unconstitutional, the plaintiffs still would not be entitled to the injunction they demand unless:

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[52] Although the plaintiff Republican Party suggests that Washington voters are too unintelligent to want to vote for a constitutional Initiative (Republican Party S.J. Motion at 27:3-4 ("It cannot be believed that voters would have passed the initiative stripped of its ... unconstitutional provisions")), it provides no support for that ad hominem attack on the citizens of our State, and the Grange accordingly does not waste time or space with an argument in reply.

* * *

THE HONORABLE THOMAS S. ZILLY

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

WASHINGTON STATE REPUBLICAN PARTY, et al., Plaintiffs, WASHINGTON DEMOCRATIC CENTRAL COMMITTEE, et al., Plaintiff Interveners LIBERTARIAN PARTY OF WASHINGTON STATE, et al., Plaintiff Interveners v. DEAN LOGAN, et al., Defendants, STATE OF WASHINGTON, et al., Defendant Interveners WASHINGTON STATE GRANGE, et al., Defendant Interveners	Case No: CV05-0927-TSZ DECLARATION OF RICHARD WINGER

I, RICHARD WINGER, declare on penalty of perjury under 28 U.S.C. 1746 as follows:

I am over the age of 18, not a party to this action and competent to make the following statements. My curriculum vitae is attached to this document as Exhibit A.

I have had an opportunity to examine Washington state's primary election returns for all congressional elections, and all state office elections, for the years 1992-2002, taking the data supplied on the website for the Washington Secretary of State. I calculated the percentage of the total vote received by each candidate who placed second.

The results for each election return are: 1992, the average second-place finisher polled 31.80%. 1994, 33.37%. 1996, 33.28%. 1998, 29.94%. 2000, 31.58%. 2002, 34.61%. The average of all these averages is 32.43%. The average second-place finisher in Washington state blanket primaries 1992-2002 polled 32.43%.

Excluding the obvious cases when only one major (Democratic or Republican) party candidate was running, I found that no one but a Republican or a Democrat ever placed first or second, with one exception. That single exception was in 2000 in the 38th state legislative district, for State House or Representatives, seat # 2. In a race with two Democratic candidates, one Reform candidate, and one Libertarian candidate, one Democrat (who had polled 63.75% in the primary) and the Reform candidate finished first and second, respectively.

DATED Tuesday, July 5, 2005, at San Francisco, California.

Richard Winger

RICHARD WINGER

Richard Winger
3201 Baker Street
San Francisco, California 94123

Curriculae Vitae, updated April 25, 2005

EDUCATION

BA, Political Science, University of California, Berkeley, 1966 Graduate study, Political Science, UCLA, 1966-67

EMPLOYMENT

Ballot Access News, Editor 1985-Present

Editor of newsletter covering legal, legislative and political developments of interest to minor parties and independent candidates. Researcher of ballot access laws of all 50 states from years 1888-present; well versed in how ballot access laws of each state work historically and how they compare to each other. Responsible for reading all statutes, regulations, legal opinions, and state attorney general opinions on rights of political parties and the publications of minor parties.

On the editorial Board of *Election Law Journal*, published by Mary Ann Liebert, Inc., Larchmont, N.Y., since 2001.

PUBLICATIONS

Wrote a chapter or two in each of these books:

Democracy's Moment

Edited by Ronald Hayduk and Kevin Mattson (2002: Rowman & Littlefield, Lanham, Md.)

The Encyclopedia of Third Parties in America

edited by Immanuel Ness and James Ciment (2000: M.E. Sharpe, Inc., Armonk, N.Y.)

Multiparty Politics in America

Edited by Paul S. Herrnson (1997: Rowman & Littlefield, Lanham, Md.)

The New Populist Reader

Edited by Karl Trautman (1997: Praeger, Westport, Ct.)

Additional articles published in these periodicals:

Wall Street Journal

American Review of Politics

The Long Term View

University of Mass. Law Review

California Journal

Election Law Journal

Cleveland State Law Review

Chronicles Magazine

Price Costco Connection

Fordham Urban Law Journal

NATIONAL INTERVIEWS on Minor Parties, Independents, Ballots and Ballot Access

NBC	National Public Radio
ABC	Pacifica Radio
CNN	MSNBC

CASES: TESTIMONY or AFFIDAVITS (political party or candidate prevailing)

Alaska: Libertarian Party v Coghill, state superior court, 3rd dist., 3AN-92-08181, 1992 Court issued injunction enjoining enforcement of petition deadline for minor parties

Arizona (2 cases): Campbell v Hull, 73 F Supp 2d 1081 (1999); Az. Libt. Party v Hull, superior court, Maricopa Co. 96-13996, 1996. Court ordered Secretary of State to place Libertarian Party presidential candidate on ballot.

Arkansas (2 cases): Citizens to Establish a Reform Party v Priest, 970 F Supp 690 (E.D. Ark. 1996); Green Party of Ark. v. Priest, 159 F.Supp.2d (E.D. Ark. 2001).

California: California Democratic Party v Jones, 530 US 567 (2000).

Colorado: Ptak v Meyer, 94-N-2250, U.S. Dist. Ct., 1994. Court ordered Secretary of State to place Libertarian legislative candidate on ballot.

Florida (2 cases): Libt. Party of Fla. v Mortham, 4:96cv258-RH, U.S. Dist. Ct., N.D., 1996. Court ordered Secretary of State to place Libertarian vice-presidential candidate on ballot. Reform Party v Black, 885 So.2d 303 (Fla. 2004).

Georgia: Bergland v Harris, 767 F 2d 1551 (11th cir., 1985). U.S. Court of Appeals remanded case back to U.S. District Court.

Before U.S. District Court acted, legislature substantially eased law, so case became moot.

Hawaii: Libt. Party of Hi. v Waihee, cv 86-439, U.S. Dist. Ct., 1986. Court ordered Lieutenant Governor to extend petition deadline for new parties.

Illinois: Nader v Ill. State Bd. of Elections, 00-cv-4401, U.S. Dist. Ct., N.D., 2000. Court ordered State Board of Elections to place candidate on ballot.

Iowa: Oviatt v Baxter, 4:92-10513, U.S. Dist. Ct., 1992. Court ordered Secretary of State to put Grassroots Party candidate for Congress on ballot.

Kansas: Merritt v Graves, 87-4264-R, U.S. Dist. Ct., 1988. State did not defend three election laws and signed consent decree on independent petition deadline, requirement that independent petitions not be circulated outside of circulator's home precinct, and requirement that voters could only register in qualified parties. This case should not be confused with another by the same name decided in December, 1988.

Kentucky: Libt. Pty. of Ky. v Ehrler, 776 F Supp 1200 (E.D. 1991)

Maryland (2 cases): Dixon v Md. State Adm. Bd. of Elec. Laws, 878 F 2d 776 (1989, 4th cir.); Green Party v Bd. of Elections, 832 A 2d 214 (Md. 2003).

Nevada (2 cases): Libt Pty. of Nev. v Swackhamer 638 F Supp 565 (1986); Fulani v

Lau, cv-N-92-535, U.S. Dist. Ct., 1992. Court ordered Secretary of State to put various minor parties on ballot.

New Jersey (2 cases): Council of alternative Political Parties v Hooks, 999 F Supp 607 (1998); Council of alternative Political Parties v State Div. of Elections, 781 A 2d 1041 (N.J.Super. A.D. 2001)

New York (3 cases): Molinari v Powers, 82 F Supp 57 (E.D.N.Y. 2000); Schulz w Williams, 44 F 3d 48 (2nd cir., 1994); Green Party of N.Y. v N.Y. State Bd. of Elections, 389 F.3d 411 (2nd cir., 2004).

North Carolina: Obie v N.C. Bd. of Elections, 762 F Supp 119 (E.D. 1991); DeLaney v Bartlett, decided July 26, 2004 (middle district, 1:02-cv-741).

Oklahoma: Atherton v Ward, 22 $_2$F Supp 2d 1265 (W.D. Ok. 1998); Beaver v Clingman, 363 F.3d 1048 (10th cir., 2004).

Pennsylvania: Patriot Party of Pa. v Mitchell, 826 F Supp 926 (E.D. 1993).

South Dakota: Nader v Hazeltine, 110 F Supp 2d 1201 (2000).

Texas: Pilcher v Rains, 853 F 2d 334 (5th cir., 1988).

Virginia: Libt. Pty of Va. v Quinn, 3:01-cv-468, U.S. Dist. Ct., E.D. (2001). Court ordered State Board of Elections to print "Libertarian" party label on ballot next to name of Libertarian candidates.

West Virginia (3 cases): State ex rel Browne v Hechler, 476 SE 2d 559 (Supreme Court 1996); Nader v Hechler, 112 F.Supp.2d 575 (S.D.W.V., 2000); McClure v Manchin, 301 F Supp 2d 564 (2003).

CASES: TESTIMONY or AFFIDAVITS (political party or candidate not prevailing)

Arizona: (2 cases) Indp. Amer. Party v Hull, civ 96-1240, U.S. Dist. Ct., 1996; Browne v Bayless, 46 P 3d 416 (2002).

Arkansas (2 cases): Langguth v McKuen, LR-C-92-466, U.S. Dist. Ct., E.d., 1992; Christian Populist Party v Sec. of State, 650 F Supp 1205 (E.D. 1987).

California: Socialist Workers Party v Eu, 591 F 2d 1252 (9th cir., 1978)

Florida (2 cases): Fulani v Smith, 92-4629, Leon Co. Circuit Court, 1992; Libertarian Party of Fla. v State of Fla., 710 F 2d 790 (11th cir., 1983).

Georgia (2 cases): Libertarian Party of Ga. v Cleland, 1:94-cv-1503-CC, U.S. Dist. Ct., N.D. (1994); Esco v Secretary of State, E-53493, Fulton Co. Superior Court, 1998.

Idaho: Nader v Cenarrusa, cv 00-503-, U.S. Dist. Ct. 2000.

Illinois: Libt Party v Rednour, 108 F 3d 768 (7th cir., 1997)

Kansas: Hagelin for President Committee v Graves, 804 F Supp 1377 (1992)

Maine (2 cases): Maine Green Party v Diamond, 95-318, U.S. Dist. Ct., 1995; Maine Green Party v Secretary of State, 96-cv-261, U.S. Dist. Ct., 1996

Maryland (2 cases): Ahmad v Raynor, R-88-869, U.S. Dist Ct., 1988; Creager v State Adm. Bd. of Election Laws, AW-96-2612, U.S. Dist. Ct., 1996.

Missouri: Manifold v Blunt, 863 F 2d 1368 (8th cir. 1988)

New Hampshire: Werme v Gov. of N.H., 84 F 3d 479 (1st cir., 1996).

North Carolina: Nader v Bartlett, 00-2040, 4th cir., 2000.

Ohio: Schrader v Blackwell, 241 F 2d 783 (6th cir., 2001)

Oklahoma (2 cases): Rainbow Coalition v Okla. State Elec. Bd., 844 F 2d 740 (1988); Nader v Ward, 00-1340, U.S. Dist. Ct., 1996

Oregon: Libt Party v Roberts, 737 P 2d 137 (Ore. Ct. of Appeals, 1987).

Texas (2 cases): Texas Indp. Party v Kirk, 84 F 3d 178 (5th cir., 1996); Nat. Comm. of U.S. Taxpayers Party v Garza, 924 F Supp 71 (W.D. 1996).

Virginia: Wood v Meadows, 207 F 3d 708 (4th cir., 2000)

West Virginia: Fishbeck v Hechler, 85 F 3d 162 (4th cir., 1996)

Wyoming: Spiegel v State of Wyoming, 96-cv-1028, U.S. Dist. Ct., 1996.

QUALIFIED EXPERT WITNESS

Fishbeck v Hechler, 85 F 3d 162 (4th cir. 1996, West Virginia case)

Council of Alternative Political Parties v Hooks, 999 F Supp 607 (1998, N.J.)

Citizens to Establish Reform Party v Priest, 970 F Supp 690 (E.D. Ark, 1996)

Atherton v Ward, 22 F Supp 2d 1265 (W.D.Ok. 1998)

Calif. Democratic Party v Jones, 530 US 567 (2000)

Swanson v Bennett, not decided yet, U.S. Dist. Ct., m.d.Ala. (02-T-644-N)

Beaver v Clingman, 363 F 3d 1048 (10th cir., 2004, Okla. Case)

Green Party v N.Y. State Bd. Elections, 267 F Supp 2d 342 (E.D.N.Y. 2003)

Lawrence v Blackwell, pending in 6th cir., U.S. Dist. s.d. Ohio (1:04-cv-398);

In all cases in which I was presented as an expert, the opposition accepted that designation, except in the Green Party of New York case. The U.S. District Court ruled that I qualify as an expert. See headnote #1 at page 342, and footnote nine on page 350.

SPEAKING ENGAGEMENTS: Colleges and Scholarly Meetings

Panel of New York City Bar Association, 1994. Ballot access.

Amer. Political Science Assn., nat. conventions of August 1995 and August 1996. Papers.

Capital University School, law school class, Columbus, Ohio, 1996. Guest lecturer.

Cal. State U., course in political science, Hayward, 1993 and 1996. Guest lecturer.

San Francisco City College, course in political science, 1996 and 1997. Guest lecturer.

Providence College, R.I., Oct. 1997, seminar on ballot access.

Harvard U., JFK School of Gov't, Oct. 18, 1995, guest lecturer, ballot access.

Voting Integrity Project national conference, Apr. 1, 2000, speaker on ballot access.

Center for Voting & Democracy nat. conference, Nov. 30, 2003,speaker on ballot access.

THE HONORABLE THOMAS S. ZILLY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT
OF WASHINGTON AT SEATTLE

WASHINGTON STATE REPUBLICAN PARTY, et al., Plaintiffs, WASHINGTON DEMOCRATIC CENTRAL COMMITTEE, et al., Plaintiff Interveners, LIBERTARIAN PARTY OF WASHINGTON STATE, et al., Plaintiff Interveners, v. EAN LOGAN, et al., Defendants, STATE OF WASHINGTON, et al., Defendant Interveners, WASHINGTON STATE GRANGE, et al., Defendant Interveners.	Case No: CV05-0927-TSZ LIBERTARIAN PARTY REPLY TO THE STATE AND GRANGE RESPONSES TO THE LIBERTARIAN PARTY MOTION FOR SUMMARY JUDGMENT AND LIBERTARIAN PARTY RESPONSE TO THE STATE MOTION FOR SUMMARY JUDGMENT NOTED FOR HEARING ON: JULY 13, 2005, AT 9:00 AM.

PRELIMINARY MATTERS

First, the Libertarian Party ("the LP") does not "agree" with the State that this case is "ripe for adjudication" (CD 65, at 5). The LP expressed a preference at the June 7th status conference to conduct discovery before seeking disposition on the

merits, particularly if the defendants were going to allege the LP was not harmed by I-872. The LP filed its motion for summary judgment because the defendant County Auditors—for whom the Secretary of State has now substituted (CD 67)—demanded an accelerated disposition of the case and consequently this court's scheduling order called for *cross-motions* for summary judgment to be filed on June 17th. To the extent this case has been accelerated to accommodate the interests of other litigants, the LP's interests in a fully developed record are prejudiced. The LP objects to the state's characterization of this case as "ripe for adjudication."

Second, the State didn't move for summary judgment on the 17th as required by the court's scheduling order. Its current request for summary judgment filed on July 1, 2005 (CD 65, at 4) is therefore untimely under this court's scheduling order. If the court is going to consider the State's motion for summary judgment outside of the requirements of the scheduling order the LP should be allowed to submit responsive materials, including affidavits, declarations and other evidence, up to the date of hearing, according to the terms of Rule 56.

FACTUAL CORRECTIONS TO THE RESPONSE BRIEFS

The State incorrectly argues that the "blanket primary" invalidated by *Democratic Party of Washington State v. Reed*, 343 F.3d 1198 (C.A.9 2003)(*"Reed"*) "was designed to, and did, advance to the general election ballot a candidate representing

each of the major political parties." (CD 65 at 6)[1] To the extent this is true at all it is the result of political party perseverance, and in spite of state action. Under the blanket primary system only minor political parties could directly nominate their candidates through the mechanism of nominating conventions. The blanket primary allowed no similar mechanism for major political parties to qualify or screen candidates as party standard bearers. Any person could designate any major political party on his or her declaration of candidacy and there was no statutory guarantee that a plurality winner was a member of that party or adhered to its message.

Second, contrary to the State's assertions, I-872 did not "eliminat[e] party affiliation as a factor in determining whether candidates advance to the general election ballot." (CD 65, at 8) A candidate's political party "preference" is published to voters in three instances that are most critical to the election process. I-872 §§ 7(3), 11. By I-872's own terms party affiliation is "a factor" in the election system it creates.

Third, the Grange mistakenly alleges the LP is "forsaking its core values of individual privacy and freedom from government restraint," by forcing voters to disclose their "political leanings" when they vote in September, and by depriving candidates of their right to state their political "preferences." (CD 70, at 1). This is nonsense. The LP has never

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[1] The Grange makes a similar mistake, claiming the "*result* was the selection of the ***political parties'*** candidates for the November ballot." (CD 70, at 4)(emphasis in original).

advocated in favor of the "Montana" primary.[2] The LP argues here for the right to nominate by convention and to have the results recognized by the State. Candidate statements of "preference," according to the LP, become problematic only when they mislead the public as to whom the candidates represent.

Finally, the Grange claims a "long, proud history of opposing powerbrokers and special interests." CD 70, at 5). The Grange fails to recognize it has been at it for so long that it has become what it opposes.[3]

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[2] Some Libertarians argue the Montana system works against the Libertarian Party. But for a sympathetic ruling in state court the LP would not have had candidates on the November 2004 ballot for Governor or U.S. Senator.

[3] "The Grange argues that Grange members support water and public utilities for farms and that its members' rights to advance their rural agenda in both parties will suffer if each Granger is forced to choose a party ballot. The Grange says that it spearheaded the initiative in 1933 that led Washington to adopt the blanket primary, which has successfully prevented "a politically corrupt nominating process controlled by political bosses or special interests." "Special interests" are evidently in the eye of the beholder. Some urban voters might think that special protection for rural water and electricity concerns serve a "special interest" of farmers, and that the Grange is a special interest group." Reed, 343 F.3d at 1206.

DISCUSSION

I. WHETHER I-872 "NOMINATES POLITICAL PARTY CANDIDATES"

Stipulated Issue #1 Is Not The Threshold Issue

The fundamental assumption of the "top two" election model is that the purpose of elections is to elect public officials, not to serve as a general forum for political expression. "If you want to win, you have to appeal to and receive the voter's support." Grange Brief (CD 70, at 23). This limited view is, at best, oversimplified and ignorant of contemporary understandings of the election process.

Modern social science theorists applying a "rational choice" model teach that political party adherents, voters and candidates all view politics as a competitive market. Under a given set of electoral rules voters and candidates make rationally self-interested decisions about politics in much the same way consumers of goods and services make decisions about economic matters.[4] The consequence is candidates often run (or not) and voters often vote (or not) not to win or back a winner but to make a political statement.[5]

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[4] See e.g., John H. Aldrich, *Why Parties? The Origin And Transformation Of Political Parties In America* 12-13 (1995).

[5] See, e.g., Dennis F. Thompson, *Just Elections: Creating A Fair Electoral Process In The United States*, 24 (2002) ("Elections are not only instruments for choosing governments; they are also media for sending messages about the democratic process.").

Five decades ago Professor McLuhan taught us "the medium is the message." The Grange recognized that election systems are not merely administrative procedures but have substantive policy content when it argued in the Voter's Pamphlet: "Parties will have to recruit candidates with broad public support and run campaigns that appeal to all voters." (CD 66, Exh. A at 4). Compare, *California Democratic Party v. Jones*, 530 U.S. 567, 580 (2000) (whole *purpose* of Proposition 198 was to favor nominees with "moderate" positions).

But some political actors, such as the LP and its adherents, are more interested in effectively promulgating an ideological message than in winning. And the Supreme Court has recognized the right of individuals and political parties to do exactly that. *Norman v. Reed*, 502 U.S. 279 288-289 (U.S., 1992).

This is why Stipulated Issue #1 is really not the threshold issue. The threshold issue should be: "Does I-872 impermissibly infringe upon constitutional rights of political parties, candidates and voters in a partisan election system?"

Reed puts it succinctly. "As for the State of Washington's argument that the party nominees chosen at blanket primaries are the 'nominees' not of the parties but of the electorate, that is the problem with the system, not a defense of it. Put simply, the blanket primary prevents a party from picking its nominees." 343 F.3d at 1204 (footnote omitted) Regardless how much the State and Grange want to re-characterize the issue, I-872 does the same thing.

The Grange and the State both argue because I-872 is not intended to "nominate political party candidates" it is constitutionally valid. Both seek to cut political parties out of an unequivocally partisan election system. See, e.g., I-872, § 4. The Grange virtually ignores party nomination rights; focusing instead on what it believes are the rights of candidates and voters. (CD 13, 16, 24, 29, 30, 31) The State makes the doubtful[6] claim that the right of political parties to nominate is a "private" right that the state need not recognize. (CD 65, at 12, 27, 32) Similar arguments that the political parties are free to endorse candidates were explicitly rejected in *Jones*, 530 U.S. at 580 ("The ability of the party leadership to endorse a candidate is simply no substitute for the party members' ability to choose their own nominee.")

The "top two" model impoverishes the First Amendment rights of voters by depriving them of substantive choices at the general election—giving them choices tantamount to "Ford" or "Chevy," meanwhile depriving them of the opportunity to choose "Dodge," "Lexus," "Hummer" or "Mini Cooper" in the election that matters.[7] It deprives candidates

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[6] See, *Brower v. Washington*, 969 P.2d 42 (1998); cert. den., 526 U.S. 1088 (1999)(elections are public functions held for a governmental purpose)

[7] "Nothing is more plain to the student of history than the tendency of one party [in a two party system] to assimilate the principles and the policies of its opponent." Andrew C. McLaughlin, *Political Parties and Popular Government*, in *The Courts, the Constitution and Parties*, 151 (1912). "We choose between Tweedledum and Tweedledee." Helen Keller, *Letter to Mrs. Grindon*, Jan. 12, 1911. Published in the *Manchester Advertiser*, Mar. 3, 1911.

of First Amendment rights of association by forcing them to run as "independents" whether they want to or not. It emasculates the First Amendment association and Fourteenth Amendment liberty rights of political parties by statutorily separating them from the very process for which they are formed to participate.

By failing (or refusing) to include a political party nomination mechanism within its partisan scheme I-872 deprives all political actors of their rights. I-872 favors centrist or "moderate" candidates over ideological or programmatic candidates, which function was expressly rejected in *Jones*, 530 U.S. at 580. This is why I-872 must fail, to protect the losers.

I-872 Is Not A Nonpartisan Primary

The State grasps at the *nonpartisan* language in *Jones*, as it did similarly in *Reed*, to support its argument that I-872 does not nominate political party candidates.[8] But I-872 is not the "*nonpartisan* blanket primary" envisioned by *Jones*. If the sponsors of I-872 really intended for primaries to be truly *nonpartisan* they could very easily have removed all references to political parties from the statutes and adopted a general petition requirement for access to the ballot. Instead, the sponsors fashioned a system that not only did not remove references to political parties but also included a *new section* defining "partisan office." See I-872 § 4.

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[8] The Grange argues the matter similarly. (CD 70, at 5, 24, 25).

Jones specifically contemplated a *nonpartisan* system that included "nomination by established parties ***and*** voter-petition requirements for independents." *Jones*, 530 U.S. at 585 (emphasis added). Except to the extent it may have left minor party nominating statutes in place,[9] I-872 does neither. Hanging their entire analysis on the word "may" both defendants argue at great length they can add whatever qualifications for ballot access they wish, and that they are not confined to the ones outlined in the paragraph. (CD 65, at 17-19; CD 70, at 24-25). As will be seen in Part V below, the state is not free to configure ballot access qualifications outside constitutional limits.

Second, the defendants' arguments completely miss the central point of both *Jones* and *Reed*. As *Reed* explained: The rights of "those who actively participate in partisan activities ... to freely associate for this purpose is thwarted because the Washington statutory scheme prevents those voters who share their affiliation from selecting their party's nominees. *Reed*, 343 F.3d at 1204. A thorough reading of both cases reveals the overwhelming concern of both courts was not to parse out a *nonpartisan* "safe harbor" but to ensure that the expressive association rights of political party adherents were protected where they mattered most, in the election process.

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[9] See, Part II, infra.

II. WHETHER POLITICAL PARTIES HAVE THE RIGHT TO NOMINATE

The State Artfully Dodges the Question

Distilled to its essence, State does not argue against a political party's right to nominate candidates per se, which right the LP contends is *sui generis*, but rather whether any candidate nominated by the political party has a right of access to the general election ballot. This issue is treated more fully in Part V, below.

Validity of the Minor Party Nominating Statutes

As previously argued, I-872 did not repeal, amend or otherwise address the minor party nominating statutes. R.C.W. §§ 29A.20.110 through 29A.20.20[10] Section 9(3) of I-872 allows any candidate access the primary ballot and to enter a minor political party "preference" on his or her declaration of candidacy without any further qualification but payment of a filing fee. However, the minor political party nominating statutes include a provision that candidates so nominated would appear on the general election ballot. R.C.W. § 29A.20.121(1).

In lengthy footnotes (CD 65, at 9 n. 6; at 16 n. 14, and at 22 n. 17) the State attempts to gloss over its treatment of the issue, arguing that I-872 impliedly repealed the minor party nominating statutes.

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[10] Throughout this section references are made to the newer minor party nominating statutes. However, the reasoning should also apply to the older statutes.

> Repeal or amendment by implication is never favored [in Washington]. *Generaux v. Petit*, 172 Wash. 132, 19 P.2d 911 (1933). This is even more true when a later act contains a schedule of statutes repealed and such schedule does not include the statute under consideration. *State ex rel. Spokane v. DeGraff*, 143 Wash. 326, 255 P. 371 (1927).

Washington State Welfare Rights Organization v. State, 82 Wash.2d 437, 439, 511 P.2d 990 (1973).

Section 17 of the initiative, while purportedly repealing statutes inconsistent with I-872, did not repeal the minor party nominating statutes.

The State also argues that other statutes related to primaries, such as R.C.W. § 29A.52.116 (relating to nomination of major party candidates at primaries) are "obsolete." (CD 65, at 19, n. 16) This raises the question: How much of Washington's prior election system is no longer operative after I-872?

I-872 plainly did not reach the entire field of elections, because it did not address the classifications of "major" and "minor" political parties in any way. A "Major political party" is one whose candidate for statewide office received at least five percent of the total vote cast at the last preceding state general election in an even-numbered year. R.C.W. § 29A.04.086. If I-872 does not "nominate political party candidates" what is the point of the statute?

Statutes relating to Precinct Committee Officers present another problem. They are a recognized internal part of the political party organizational apparatus. See, generally, Chapter 29A.80, R.C.W. However, R.C.W. § 29A.80.051 provides that PCOs are elected at the primaries, yet the State argues the I-872 primary does not "nominate political party candidates."

The LP does not seek resolution from this court whether these provisions are impliedly repealed, amended, obsolete or otherwise inoperative. Instead, the LP merely wants to show that I-872 did not, as the both the Grange and the State suggest, "cover the entire subject matter." Here the LP is concerned solely with the validity of the minor party nominating statutes.

In determining whether I-872 impliedly repealed, amended or otherwise rendered inoperative the minor party nominating statutes, "[t]he collective intent of the people becomes the object of the court's search for 'legislative intent' when construing a law adopted by a vote of the people. E. Crawford, *The Construction of Statutes*, § 365 (1940 ed.) p. 745." *Washington State Dept. of Revenue v. Hoppe*, 82 Wash.2d 549, 552, 512 P.2d 1094 (1973). To ascertain the collective purpose and intent of the people, material in the official voters' pamphlet may be considered. *Hi-Starr, Inc. v. Washington State Liquor Control Bd.*, 106 Wash.2d 455, 460-461, 722 P.2d 808 (1986) (citations omitted).

The voter's pamphlet states, "I-872 will restore the kind of choice in the primary that voters enjoyed

for 70 years in the blanket primary."[11] Until the blanket primary was invalidated it included minor party candidates who had been nominated by conventions. The pamphlet also refers voters to the I-872 sponsor's website. That website, entitled: "Initiative 872 - Preserve the Blanket Primary"[12] contains the following dialogue under "Frequently Asked Questions."

> "Would this proposal eliminate minor party candidates from the primary or general election ballot?"
>
> "No. Minor parties would continue to select candidates the same way they do under the blanket primary...."[13]

Since minor parties selected their candidates by nominating convention under the blanket primary—using the primary only for the purpose of demonstrating a "modicum of support" and thus to gain access to the general election ballot, see, *Munro v. Socialist Workers Party*, 479 U.S. 189 (1986)—the initiative sponsors may have intended that minor parties would continue nominating candidates by convention.[14] But the Grange is strangely silent on

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[11] See, Declaration of James Pharris, Exhibit A, page 4 (CD 66)

[12] This title to the website speaks volumes about the legislative intent of the sponsors of I-872.

[13] See, http://www.i872.org/faq.php. The entire text of the Frequently Asked Questions page from the I-872 website is already a part of the record as Exhibit 3 to the Declaration of John White (CD 8).

[14] Here the Declaration of Kevin Hansen, becomes important. The state asks this court to strike that declaration

the issue and the State applied a different interpretation to the legislative intent for I-872, promulgating emergency rules[15] declaring that I-872 "impliedly amended" the minor party nominating convention statutes. (CD 65, at 22 n. 17).

The Grange addresses the issue only tangentially, arguing "Washington law holds that the People's right to enact State laws by initiative or referendum may not be frustrated by legislation passed after a ballot measure is filed but before it is voted upon." (emphasis in original, citation omitted) (CD 70, at 21, n. 30) The result of this line of reasoning is merely that if any minor party nominating statutes are still effective they are the ones in effect at the time I-872 was filed (December, 2004).[16]

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for timeliness and relevance reasons. Mr. Hansen's declaration is timely because the Libertarian Party is relying upon it in response to the State's untimely Motion for Summary Judgment. It is relevant because it shows that the President of the Senate had determined that legislation repealing the minor party nomination statutes as proposed by the Secretary of State, HB 5745, would require a 2/3 vote under Washington Constitution, Art. II, § 1(c), because the bill represented a material alteration to the initiative. (CD 64, Ex. C, page 24 of 24).

[15] See, Exhibit C to Declaration of James Pharris (CD 66).

[16] Chapter 29.24, R.C.W., (recodified and/or amended – depending whom you ask – approx. 2004). The significant differences between the old and new minor party rules related to the number of signatures required for a particular office and whether a certificate of nomination entitled a candidate to appear on the primary ballot or the general election ballot.

Identity, Not Truthfulness, Is The First Amendment Issue

The Grange complains that the LP wants the right of "prior restraint," i.e., the "right to approve of the truthfulness of a candidate's statement of preference." (CD 70, at 26, 30). This is absurd. The LP claims no right to regulate the speech of one who does not purport to speak in the name of the LP. However, the LP knows full well that political campaign speech is rarely "truthful," and it is for precisely this reason the LP claims a right to protect its identity by assuring that its message, and not someone else's, is promulgated in its name. "The forced inclusion of an unwanted person in a group infringes the group's freedom of expressive association if the presence of that person affects in a significant way the group's ability to advocate public or private viewpoints." *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 648 (U.S., 2000). This issue is discussed in further detail at Part IV, below.

III. WHETHER I-872 COMPELS POLITICAL PARTIES TO ASSOCIATE WITH UNAFFILIATED VOTERS OR VOTERS AFFILIATED WITH OTHER PARTIES

The State concedes, if I-872 nominates political party candidates, then it "would indeed trigger a need to respect the associational rights of the political parties." (CD 65, at 25). The Grange argues that I-872 doesn't "compel the parties to do anything." (CD 70, at 32). This is simply another way of saying that the Grange wants to exclude the political parties from what is, by design, a partisan election system. As *Reed* has clearly taught us, "that

is the problem with the system, not a defense of it." *Reed*, supra.

IV. WHETHER I-872 FORCES A POLITICAL PARTY TO ASSOCIATE WITH CANDIDATES WHO DO NOT SHARE THE PARTY'S MESSAGE

Here again both defendants premise their argument on the assumption that I-872 does not nominate political party candidates. (CD 65, at 28) (CD 70, at 33). And again, "that is the problem with the system, not a defense of it." *Reed*, supra.

Party Trademark or "Brand" Rights

The State suggests that I-872 makes "party nominations an entirely private process." (CD 65, at 27). Assuming for the purpose of argument that this is true then the political parties have the right, as private entities, to protect use of their trademarked names. As the LP has previously shown, the term "Libertarian Party" is a registered trademark.[17]

> The fundamental purpose of a trademark is to reduce consumer search costs by providing a concise and unequivocal identifier of the particular source of particular goods. The consumer who knows at a glance whose brand he is being asked to buy knows whom to hold responsible if the brand disappoints and whose product to buy in the future if the brand pleases. ... *A*

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[17] See, Exhibit F to Declaration of Richard Shepard (CD 51)

> *successful brand, however, creates an incentive in unsuccessful competitors to pass off their inferior brand as the successful brand by adopting a confusingly similar trademark, in effect appropriating the goodwill created by the producer of the successful brand.*

Ty Inc. v. Perryman, 306 F.3d 509, 510 (7th Cir., 2002) (emphasis added).[18]

It is common knowledge that the name of a political party implies certain political views. The defendants obviously recognize the value of a political party name because they go to great lengths to assure that political party "information" goes to the voters whether or not the political parties have any control over who uses (or abuses) it. Just as clearly the Grange recognized a "*nonpartisan* blanket primary"[19] would increase the difficulty for each and every voter to question each and every candidate thoroughly in an effort to ascertain his or her political platform. It is the express intention of I-872 that voters use that political party name (a/k/a "information") to determine for whom to vote.

Thus the sponsors devised a scheme to co-opt the reputation and prestige of political party names

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[18] Many modern social scientists believe that participants view the election process as a "competitive marketplace" similar to the economic marketplace involving consumer goods and services. See, n. 8, supra. If so, then there is no reason why the protections available under trademark law should not be available to political actors.

[19] See, discussion supra, at n. 4, and accompanying text.

but which necessarily introduces the risk that voters will get an inferior "imposter" candidate "passing off" a party name, thus misleading the voters at the expense of the political parties' rights.

The Right to Exclude Candidates Who Do Not Follow Party Rules

The state focuses on a single case (among several) involving the right of political parties to determine their association with particular candidates. *Duke v Massey,* 87 F.3d 1226 (11th Cir. 1996). Even here the State acknowledges one of the recognized bases for affirming the exclusion of David Duke from the Republican ballot was that the Republican Party did not consider Duke to be a member of the party. Despite the several other reasons that may have informed the *Massey* holding, none of the cases in this category suggest that a political party does not have the right to exclude unacceptable candidates.

In *Ray v. Blair,* 343 U.S. 214, 72 S.Ct. 654 (1952), the court held a requirement that candidates of a political party in a primary election pledge support to the party's nominees does not deny equal protection or due process. "A state's or a political party's exclusion of candidates from a party primary because they will not pledge to support the party's nominees is a method of securing party candidates in the general election, pledged to the philosophy and leadership of that party." *Blair,* 343 U.S. 214, 227, 72 S.Ct. 654 (1952)

This party right is not a function of state statute. *Democratic Party of U. S. v. Wisconsin ex rel. La Follette,* 450 U.S. 107, 101 S.Ct. 1010 (1981)

held that Democratic Party rule, not state law, determined the right. "On several occasions this Court has recognized that the inclusion of persons unaffiliated with a political party may seriously distort its collective decisions—thus impairing the party's essential functions—and that political parties may accordingly protect themselves 'from intrusion by those with adverse political principles.'" *La Follette,* 450 U.S. at 122 (citing to *Blair,* 343 U.S. *at 221-222*) Neither are *Blair* or *La Follette* confined to strictly internal party operations. *Jones,* 530 U.S. at 576 n. 7.

The LP requires that candidates representing the LP shall be members of the LP, and further that in order to become a member of the LP one must subscribe to or affirm a "non-aggression pledge."[20] The State has advanced no reason why the LP cannot, as *Ray* did, require candidates for partisan office to execute a pledge it requires of all members of the LP who wish to be candidates, and to exclude from the ballot any candidate who refuses to do so.

V. WHETHER I-872 UNCONSTITUTIONALLY LIMITS BALLOT ACCESS RIGHTS

Of core concern to any ballot access analysis is the requirement that the election laws "do not operate to freeze the political status quo ... [and at the same time] recognize[] the potential fluidity of American political life." *Jenness v. Fortson,* 403 U.S. 431, 438-439 (U.S., 1971) I-872 fails both tests.

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[20] See, Exhibit E to Declaration of Richard Shepard. (CD 51)

The State implies that ballot access is a party rights issue, when in fact it is a candidate's rights and voter's rights issue. *Dart v. Brown*, 717 F.2d 1491, 1499 (5th Cir., 1983)("If it had no candidate to offer, a political party would neither seek nor gain access to the ballot.")[21] "Restrictions on access to the ballot burden two distinct and fundamental rights, the right of individuals to associate for the advancement of political beliefs, and the right of qualified voters, regardless of their political persuasion, to cast their votes effectively." *Illinois State Board of Elections v. Socialist Workers Party*, 440 U.S. 173, 184 (1979) I-872 interferes with the associational rights of candidates and their supporters by forcing all candidates to run as independents, i.e., statutorily disconnecting the political party from the candidate and the election process itself.[22] It also undermines the right of voters to cast their votes effectively by limiting their substantive choices at the general election (the one that counts) to two only.[23]

Only A "Modicum of Support" May Be Required for Ballot Access

The State relies on *Munro*, which held, *inter alia*, "We think that the State can properly reserve the general election ballot 'for major struggles,' . . . by conditioning access to that ballot on a showing of

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[21] This is why individual party plaintiffs Ruth Bennett and J. Mills are in the case.

[22] See, Parts I, II, and IV, supra.

[23] See, Part I, supra. Some opponents of I-872 have called it "the People's No-Choice Initiative."

a modicum of voter support."[24] *Id.* at 196 (quoting *Storer v. Brown*, 415 U.S. 724, 735, 94 S. Ct. 1274, 39 L. Ed. 2d 714 (1974))" The State suggests the "major struggles" language here justifies the "top two" provisions of I-872. (CD 65, at 20). The State again relies on *Munro* to argue that a state can require candidates to demonstrate a "modicum of community support in order to advance to the general election." *Munro*, 479 U.S. at 197. (CD 65, at 29).

But access rights to the general election ballot are not predicated on a candidate's ranking within a field of candidates after a primary election. Nothing in *Munro* (or any of the other ballot access cases) suggests that a state can require *more than* a "modicum of support" for access to the general election ballot. The Supreme Court has signaled that 5% is probably the highest limit it is likely to approve. *Storer v. Brown*, 415 U.S. 724, 739 (U.S., 1974)(footnote omitted). Regardless of the method of calculation used, I-872 will require between 20% and 35% to advance to the general election.[25]

I-872 Improperly Allows Candidates Only One Route To The General Election Ballot

The defendants argue since I-872 "treats all candidates the same" (CD 65, at 31), cf., Grange Brief (CD 70, at 2) the political parties cannot claim

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[24] The "modicum of support" test at issue in *Munro* is the so-called "one-percent" rule, which required all candidates to poll at least 1% of the total vote cast for the office to advance to the general election ballot. It was not, as the State seems to imply, placing first or second in the contest.

[25] See, Exhibit C to Declaration of Richard Shepard (CD 51), and Declaration of Richard Winger, filed herewith.

any discrimination. This is precisely the problem. Under I-872 there is only one route to the general election ballot, by coming in first or second in the primary.[26]

> "The fact is that there are obvious differences in kind between the needs and potentials of a political party with historically established broad support, on the one hand, and a new or small political organization on the other. ... Sometimes the grossest discrimination can lie in treating things that are different as though they were exactly alike, a truism well illustrated in *Williams v. Rhodes*, [393 U.S. 23 (1968)]." *Jenness v. Fortson*, 403 U.S. 431, 442 (1971).

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[26] While I-872 does not address the "write-in candidate" statute, R.C.W. § 29A.24.311, which allows a candidate to seek direct access to the general election ballot by write-in votes, the State's position that the minor party nominating statutes have been "impliedly amended" may mean that the write-in statutes have also been affected. Regardless, the LP notes that write-ins are disfavored as a meaningful mechanism for ballot access. "[I]n *Lubin v. Panish*, 415 U.S. 709 (1974), the Court characterized as "dubious at best" the intimation that a write-in provision was an acceptable means of ballot access: "The realities of the electoral process... strongly suggest that 'access' via write-in votes falls far short of access in terms of having the name of the candidate on the ballot.... That disparity would, itself, give rise to constitutional questions...." Id., at 719 n. 5." *McCarthy v. Briscoe*, 429 U.S. 1317, 1321 (U.S., 1976) In any event, the write-in statute has nothing to do with the right to ***appear*** on the general election ballot.

This observation applies equally to independent or unaffiliated candidates.

> It may be that the 1% registration requirement is a valid condition to extending ballot position to a new political party. Cf. *American Party of Texas v. White*, 415 U.S. 767 (1974). But the political party and the independent candidate approaches to political activity are entirely different and neither is a satisfactory substitute for the other.

Storer v. Brown, 415 U.S. 724, 745 (U.S., 1974) (cited with approval in *McCarthy v. Briscoe*, 429 U.S. 1317, 1320 (U.S., 1976)).

The number and reasonableness of alternative routes to the general election ballot has been a major factor in the result of several ballot access cases, e.g., *Jenness*, supra, *Storer*, supra, *American Party*, supra, and *McCarthy*, supra. *Burdick v. Takushi*, 504 U.S. 428 (1992), which upheld Hawaii's elimination of the write-in route, noted Hawaii had 3 alternative routes to the ballot. None of the ballot access cases suggest that the state may provide only one route to the general election ballot and then limit that general election ballot only to two candidates who have obtained the most votes in a prior popularity contest.[27] Even the infamous *"nonpartisan* blanket

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[27] *Foster v. Love*, 522 U.S. 67 (U.S., 1997), the only Supreme Court case addressing an election system remotely similar to I-872, related to "the day" for federal elections, not access to the final ballot. See, discussion regarding time for federal elections, infra.

primary" paragraph in *Jones* 530 U.S. at 585, required two alternative routes.

I-872 Sets An Unconstitutional Time For Federal Elections

"A primary is a first stage in the public process by which voters elect candidates to public office." I-872 § 7(1). The Grange refers to the "top two" system as a "two-stage" public election process. (CD 70, at 13, 28, 33, 34). The State argues "[t]he general election is a 'runoff' between the two candidates gaining the most votes in the primary." (CD 65, at 8).

Foster v. Love, 522 U.S. 67 (U.S., 1997) addressed the timing of federal elections and held that the first Tuesday after the first Monday in November of even numbered years was "*the day*" for federal elections. *Id.*, 522 U.S. at 71 (quotes in original, emphasis added). There is nothing in the U.S. Constitution or the U.S.C. that suggests federal elections can be held in two stages, much less over the course of six weeks. Further, to the extent runoffs are necessary, they must be held after "the day" for federal elections. 2 U.S.C. § 8. Accordingly I-872 violates federal law as to the time of elections for federal offices.[28]

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[28] Cf. Jones, 530 U.S. at 580 ("In effect, Proposition 198 has simply moved the general election one step earlier in the process, at the expense of the parties' ability to perform the "basic function" of choosing their own leaders.")(citation omitted).

I-872 Imposes Unconstitutional Qualifications For Federal Office

As above, placing first or second in the primary is the only way a candidate will appear on the general election ballot. By eliminating all other routes to the general election ballot, I-872 has added an unconstitutional "qualification of membership" in Congress, i.e., winning or placing in an expensive and non-dispositive popularity contest.

Powell v. McCormack, 395 U.S. 486 (1969), noted the framers considered a proposal to allow property ownership qualifications for membership in Congress:

> James Madison urged its rejection, stating that the proposal would vest
>
> "an improper & dangerous power in the Legislature. The qualifications of electors and elected were fundamental articles in a Republican Govt. and ought to be fixed by the Constitution. If the Legislature could regulate those of either, it can by degrees subvert the Constitution. A Republic may be converted into an aristocracy or oligarchy as well *by limiting the number capable of being elected,* as the number authorised to elect. . . . It was a power also, which might be made subservient to the views of one faction agst. another. *Qualifications founded on artificial distinctions may be devised, by the stronger in order to keep out partizans of [a weaker] faction.*" [2 Records of the

> Federal Convention of 1787], at 249-250. Significantly, Madison's argument was not aimed at the imposition of a property qualification as such, but rather at the delegation to the Congress of the discretionary power to establish any qualifications.

Powell, 395 U.S. at 533-534(emphasis added).

I-872 creates an "artificial distinction" by "limiting the number capable of being elected" to two, in which "the stronger" (i.e., the better connected and better financed) ***will*** "keep out" the "weaker faction," in an election that the state itself calls a "qualifying" election. (CD 65, at 21).

At several times throughout *U.S. Term Limits V. Thornton*, 514 U.S. 779 (1995), the Supreme Court recognized the pernicious side effects of allowing Congress or the states to add qualifications to membership in Congress. The court recognized "the more practical concern that reposing the power to adopt qualifications in Congress would lead to a self-perpetuating body to the detriment of the new Republic." *Thornton*, 514 U.S. at 794, n. 10. (citing to *Powell*, 395 U.S. at 533-534) Again citing to *Powell* the court: "noted that 'restrictions upon the people to choose their own representatives must be limited to those 'absolutely necessary for the safety of the society." *Thornton*, 514 U.S. at 795 (citing *Powell*, 395 U.S. at 543). I-872 will lead to a self-perpetuating governing bodies and is not even remotely necessary. It cannot be allowed to stand.

CONCLUSION

For the foregoing reasons I-872 should be found unconstitutional on its face and in its entirety as a deprivation of the Libertarian Party's rights under 42 U.S.C.§ 1983. The government defendants should be enjoined from implementing I-872 in any way.

DATED Wednesday, July 06, 2005, at Tacoma, Washington.

SHEPARD LAW OFFICE, INC.,

Richard Shepard

RICHARD SHEPARD, WSBA # 16194
Attorney for Proposed Interveners
LIBERTARIAN PARTY OF
WASHINGTON STATE, RUTH
BENNETT, and J. S. MILLS

Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE REPUBLICAN PARTY, et al., Plaintiffs, WASHINGTON DEMOCRATIC CENTRAL COMMITTEE, et al., Plaintiff Intervenors, LIBERTARIAN PARTY OF WASHINGTON STATE, et al., Plaintiff Intervenors, vs. DEAN LOGAN, King County Records & Elections Division Manager, et al., Defendants, STATE OF WASHINGTON, et al., Defendant Intervenors, WASHINGTON STATE GRANGE, et al., Defendant Intervenors.	NO. CV05-0927-TSZ SUPPLEMENTAL DECLARATION OF KEVIN B. HANSEN NOTE ON MOTION CALENDAR: Wednesday, July 13, 2005 WITH ORAL ARGUMENT

KEVIN B. HANSEN declares under penalty of perjury under the laws of the State of Washington and the United States of America as follows:

1. I am one of the attorneys for the plaintiffs in this lawsuit, am competent to testify,

and make this declaration of my own personal knowledge.

. . . .

3. Attached hereto as Exhibit 1 is a true and correct copy of a press release dated January 8, 2004 and entitled "Grange Files Initiative to Preserve State's Primary System," which is available on the "Yes on 872" website at www.blanketprimary.org/pressroom/release-2004-01-08.php.

SIGNED this 6th day of July, 2005 in Kirkland, Washington.

Kevin B. Hansen

KEVIN B. HANSEN

EXHIBIT 1
to
Supplemental Declaration
of
Kevin B. Hansen

[Yes on 872 web page header omitted]

NEWS RELEASE

January 8, 2004

For Immediate release

GRANGE FILES INITIATIVE TO PRESERVE STATE'S PRIMARY SYSTEM

Washington State Grange President Terry Hunt filed an initiative today with the Secretary of State to protect the state's primary system from attacks by the major political parties.

"This is basically a back-up plan in case the U.S. Supreme Court doesn't accept our request for review of the Ninth Circuit Court decision against Washington State's blanket primary," said Hunt. "We believe that the Supreme Court will eventually uphold our blanket primary, but we need to be prepared if that does not happen.

"We hope to know by March whether or not the U.S. Supreme Court will hear the blanket primary case. If they do hear the appeal, then everything will be on hold until next year," Hunt pointed out.

"For seventy years under the blanket primary system, the voters of this state have chosen which candidates advance to the general election ballot. Now the major political parties are trying to take that away from the voters. This proposed initiative will ensure that the candidates who appear on the general election ballot are those who have the most support from the voters – not just the support of the political party leadership."

The voters of Washington overwhelmingly support the blanket primary. In a blanket primary, the voter does not have to declare political party affiliation at any stage of the process and may vote for any candidate for any office on the primary ballot.

"The major political parties are going to try to convince the Legislature and the public that the only way to change the primary system is to restrict voters' choices in the primary and to force independent voters out of the primary altogether," Hunt explained. "This is simply not true. We can continue to have all of the benefits of the blanket primary, including the right of a voter to pick any candidate for any office."

The proposed initiative would replace the current nominating system with a qualifying primary, similar to the nonpartisan primaries used for city, school district, and judicial offices. As in those primaries, the two candidates who receive the greatest number of votes would advance to the general election. Candidates for partisan offices would continue to identify a political party preference when they file for office and that designation would appear on both the primary and general election ballots.

"We want the Legislature to know that there are alternatives to the restrictive proposals the political parties are trying to push," Hunt said. "And we want the voters to know that they can continue to have a primary where they choose the candidates that go on the general election ballot. If the Court rules against the blanket primary and the Legislature doesn't adopt a system that preserves the rights that voters

now enjoy under the blanket primary, we are ready with an Initiative that will do just that."

The Washington State Grange is the key player in efforts to retain the state's decades-old blanket primary. The current primary system – which is being attacked in court by the political parties – was put into place due to Grange action in the 1930s.

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For your information, the following background information has been placed on our website:

A. The text of the initiative filed today (http://www.blanketprimary.org/text.php)

B. A FAQ page answering many questions about our primary (http://www.blanketprimary.org /faq-jan2004.htm)

C. A chart showing differences between Washington State's primary and those of other states (http://www.blanketprimary.org/com parison.htm)

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE.

WASHINGTON STATE REPUBLICAN PARTY, et al., Plaintiffs, and WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE, et al., Plaintiff Intervenors, and LIBERTARIAN PARTY OF WASHINGTON STATE, et al., Plaintiff Intervenors, v. STATE OF WASHINGTON, et al., Defendants, and WASHINGTON STATE GRANGE, Defendant Intervenors.	No. CV05-0927Z SECOND DECLARATION OF DAVID T. McDONALD IN SUPPORT OF PLAINTIFF INTERVENOR WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE'S REPLY TO ITS MOTION FOR SUMMARY JUDGMENT **Noted for Oral Argument:** **July 13, 2005 @ 9:00 a.m.**

1. I am the lead attorney for Plaintiff in Intervention the Washington State Democratic Central Committee in the above-entitled action. I am over the age of eighteen years and I am

competent to make this declaration. I make this declaration based on my own personal knowledge.

2. Attached as Exhibit A is a true and accurate copy of a news release dated April 1, 2004 entitled *Grange Launches "People's Choice" Initiative Campaign in Response to Governor's Veto*, which is available on the "Yes on 872" website at www.i872 .org/pressroom/release-2004-04-01.php. This document was printed from that website on July 6, 2005.

3. Attached as Exhibit B is a true and accurate copy of the Washington State Grange Executive Committee Minutes dated March 31, 2004, which is available on the Washington Public Disclosure Commission's website. This document was printed from that website on July 6, 2005.

DATED this 6th day of July, 2005.

David T. McDonald

David T. McDonald

EXHIBIT A

[YES ON 872 internet header omitted]

NEWS RELEASE

April 1, 2004

For immediate release

GRANGE LAUNCHES "PEOPLE'S CHOICE" INITIATIVE CAMPAIGN IN RESPONSE TO GOVERNOR'S VETO

The Washington State Grange announced today that it is now collecting signatures for I-872 (the "People's Choice" initiative) to run on the November ballot.

The initiative will institute a "modified" blanket primary system (also known as a qualifying primary) in which voters will not be restricted to choosing among the candidates of only one party in a primary election. Voters will also not be required to declare party affiliation when registering.

The initiative would implement a "top-two" system in which the two top vote-getters in a primary election advance to the general election, regardless of party.

"Our initiative will put a system in place which looks almost identical to the blanket primary system we've been using for nearly 70 years," said Grange President Terry Hunt. "The only difference is that this system will satisfy the constitutional requirements set forth by the courts."

The campaign was launched in response to Gov. Locke's partial veto of Engrossed Senate Bill 6453, which was passed by the legislature last month. The bill would have put a top-two system in place, which would then revert to a Montana-style system in the

event that legal challenges by the political parties resulted in a successful ruing.

However, the Gov. Locke vetoed the "top-two" system out of the bill, leaving only the Montana-style system in it's place. Under this system, voters are required to choose a ballot from only one party at a primary election.

"The Governor defied the will of the voters, and he defied the will of the legislators elected to represent those voters," said Hunt. "By changing the intent of the bill, he will have to face not only our initiative campaign, but a law suit by the Grange as well. He simply can't veto the qualifying primary out of a bill that is titled 'Enacting a Qualifying Primary.'"

###

For more information, contact David Burr, Communications Director, (360) 943-9911.

EXHIBIT B

Washington State Grange Executive Committee Minutes

Conference Call

March 31, 2004

Worthy Master Terry Hunt called the Washington State Grange Executive Committee special meeting to order at 2:00 pm on March 31, 2004. All committee members were on the line.

Worthy Master Terry Hunt reported that the Governor is expected to take action on ESB-6453 tomorrow, April 1, 2004. If the Governor Veto's the top two out of the bill as suspected, we will be obligated to run Initiative 872, the People's Choice Initiative.

Worthy Master Terry Hunt briefed the committee on paid signature collecting organizations and the Initiative drive.

Being no further business, the executive committee meeting adjourned at 2:45 pm.

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE REPUBLICAN PARTY, CHRISTOPHER VANCE, BERTABELLE HUBKA, STEVE NEIGHBORS, BRENT BOGER, MARCY COLLINS, MICHAEL YOUNG, Plaintiffs, v. DEAN LOGAN, King County Records & Elections Division Manager; BOB TERWILLIGER, Snohomish County Auditor; VICKY DALTON, Spokane County Auditor, GREG KIMSEY, Clark County Auditor, CHRISTINA SWANSON, Cowlitz County Auditor, VERN SPATZ, Grays Harbor County Auditor, PAT GARDNER, Pacific County Auditor, DIANE L. TISCHER, Wahkiakum County Auditor, and DONNA M. ELDRIDGE, Jefferson County Auditor, Defendants.	NO. 05-0927 Z STATE INTERVENORS' ANSWER TO COMPLAINT IN INTERVENTION OF WASHINGTON DEMOCRATIC CENTRAL COMMITTEE

As and for an Answer to the Complaint in Intervention filed in this matter by the Washington State Democratic Central Committee, the State Intervenors admit, deny, and allege as follows:

I. NATURE OF ACTION

1. Paragraph 1 of the Complaint purports to be a paraphrase and summary of the constitutional rights of political parties, including a quote from case law. This paragraph amounts to legal argument and does not require an answer. To the extent an answer is appropriate, the State denies that Paragraph 1 is an accurate summary of the law. The quote is accurate but misleading when removed from its context.

2. Paragraph 2 of the Complaint consists of legal argument concerning the "fundamental purposes of the First Amendment" and does not require an answer. To the extent an answer is appropriate, the State asserts that Paragraph 2 is irrelevant to this case, as Washington law does not implicate the principles there advanced.

3. Responding to Paragraph 3 of the Complaint, the State admits that Initiative Measure No. 872 (I-872) was enacted through voter approval of an initiative measure, and took effect on or about December 2, 2004. The remainder of Paragraph 3 consists of legal argument concerning the legal effect of Washington state law. To the extent an answer is required, the State denies that Paragraph 3 accurately states the law or accurately characterizes either the intent or the behavior of the State and its officers and employees.

4. Paragraph 4 of the Complaint consists of speculation concerning the intent behind the adoption of I-872 and argument concerning its legal effect. To the extent an answer is required, the State denies that Paragraph 4 accurately characterizes the

intent of the initiative measure or its effect on political parties.

5. Responding to Paragraph 5 of the Complaint, the State understands that the Plaintiffs have filed this action to protect what the Democratic Party Plaintiffs assert to be First Amendment rights. The State denies that I-872 censors or interferes with the rights of the plaintiffs, and denies that I-872 is unconstitutional.

II. JURISDICTION AND VENUE

6. In response to Paragraph 6 of the Complaint, the State admits that this case presents a federal question and that this Court has jurisdiction. The remainder of Paragraph 6 consists of legal argument and does not require a response.

7. In response to Paragraph 7 of the Complaint, the State admits that the Western District of Washington is a proper venue for this action.

III. PARTIES

8. In response to Paragraph 8 of the Complaint, the State admits that the Democratic Party meets the definition of "major political party" set forth in RCW 29A.04.086. The State does not have knowledge sufficient to admit or deny the remaining allegations in Paragraph 8, and therefore denies them.

9 In response to Paragraph 9 of the Complaint, the State lacks sufficient knowledge to admit or deny the allegations contained therein, but has no reason to doubt the truth of those allegations.

10. In response to Paragraph 10 of the Complaint, the State admits that this paragraph accurately names several county officers. These officers have powers and responsibilities as described in state law. The State further admits that all of the counties mentioned in Paragraph 15, except Spokane County, lie within the Western District of Washington.

IV. WASHINGTON'S ELECTION SYSTEM

11. Responding to Paragraph 11 of the Complaint, the State admits that a primary will occur in September 2005, and that it will include both "partisan offices" and nonpartisan offices as defined by I-872. Initiative 872 defines "partisan office" as "a public office for which a candidate may indicate a political party preference on his or her declaration of candidacy and have that preference appear on the primary and general election ballot in conjunction with his or her name." I-872, § 4. The initiative measure further provides that for partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, then that preference will be shown after the name of the candidate on the primary and general election ballots. I-872, § 7(3). The initiative further states that "any party or independent preferences are shown for the information of voters only and may in no way limit the options available to voters." *Id.* When a primary is conducted for a partisan office, the top two candidates will be certified as qualified to appear on the general election ballot, unless only one candidate qualifies. I-872, § 7(2). To the extent that Paragraph 11 of the Complaint cites Washington statutes that are

inconsistent with I-872, the State asserts that these statutes have been superseded or impliedly amended by I-872. The State specifically asserts that its primary is not used to nominate or select the candidates of any political party for public office. Washington law neither requires political parties to nominate candidates for office, nor prevents them from doing so if they choose. The State has no specific knowledge as to whether defendants Logan and Terwilliger have made the assertions ascribed to them in Paragraph 11, but has no reason to doubt the accuracy of the allegation. However, the State asserts that the quotation is misleading taken out of context.

12. In response to Paragraph 12, the State denies that state law, including I-872, interferes or seriously burdens the rights of political parties and their adherents to exercise their rights of association. State law does not force any political party to participate in state elections, including primaries. The State denies that permitting candidates to list a party preference on the primary ballot constitutes an "association" between the candidate and a political party or, if it does, that such an "association" constitutes any cognizable burden on the associational rights of the parties. The State denies that state law allows any person to appropriate a political party's name. To the extent this answer does not otherwise fully respond to the allegations in Paragraph 12, they are denied.

13. Paragraph 13 of the Complaint consists entirely of legal argument concerning the alleged legal effect of state law. To the extent an answer is required, the State denies that Paragraph 13 accurately states the law.

14. In response to Paragraph 14 of the Complaint, the State asserts that the Washington state primary as established in I-872 does not select "standard-bearers" or party nominees. The remainder of the allegations, which constitute legal argument concerning the effect of the initiative measure and other laws and the purposes behind its enactment, are denied.

15. The allegations contained in Paragraph 15 of the Complaint consist of legal argument. To the extent they require answer, they are denied.

16. The State denies the allegations contained in Paragraph 16 of the Complaint. Since Washington does not conduct a primary in which party nominees are selected, these allegations are not material.

V. ALLEGATIONS CONCERNING DENIAL OF EQUAL PROTECTION

17. In response to Paragraph 17 of the Complaint, the State asserts that Washington law no longer makes party nomination a part of the state's electoral process, although political parties may endorse candidates for any office. To the extent that RCW 29A.20.121 provided that minor party candidates would be placed on the general election

ballot by virtue of nomination by convention, it has been superseded by Initiative 872 and is no longer operable. The State denies that its laws invade the associational rights of any political party, or that its laws deny the Democratic Party Plaintiffs the equal protection of the law.

18. In response to Paragraph 18 of the Complaint, this Paragraph cites statutes that have been superseded or rendered inoperable by the enactment of I-872. The State denies that its election system denies to any political party the right to nominate its candidates, or to enforce any legally cognizable rights concerning use of a political party's name. As amended by I-872, state law draws no constitutionally significant distinctions between major and minor parties.

VI. DEMOCRATIC PARTY OF WASHINGTON v. REED

19. Responding to Paragraph 24 of the Complaint, the State admits that the case of *Democratic Party v. Reed* was litigated, and resulted in a court declaration that a previous state primary system was unconstitutional. The State denies any remaining allegations in Paragraph 19.

20. Paragraph 20 of the Complaint consists of selected quotes from case law and of legal argument. The State admits that the quotations are accurate, though taken out of context. The State denies the remaining allegations in Paragraph 20.

21. Paragraph 21 of the Complaint consists of legal argument to the effect that I-872 establishes an election system that has the same constitutional defects as the system invalidated in *Democratic Party v. Reed*. To the extent an answer is required, the State denies that its laws are unconstitutional.

VII. ALLEGATIONS CONCERNING DEPRIVATIONS OF CIVIL RIGHTS

22. Responding to the allegations in Paragraph 22 of the Complaint, the State admits that the Washington State Democratic Central Committee has adopted rules governing the nomination of its candidates for public office and that those rules have been provided to various parties, including the county auditors.

23. The allegations contained in Paragraph 23 of the Complaint are legal argument. To the extent they require an answer, the State denies them.

24 The State denies the allegations contained in Paragraph 24 of the Complaint.

VIII. PLAINTIFFS' FIRST CAUSE OF ACTION

25. The State realleges and incorporates by reference Paragraphs 1 through 24 above.

26. Responding to Paragraph 26 of the Complaint, the State admits that there is a disagreement between the Plaintiffs and the State concerning the constitutionality of state election laws, but denies that the Plaintiffs have stated any cognizable claim for relief.

27. The State denies the allegations in Paragraph 27 of the Complaint.

28. The State denies the allegations in Paragraph 28 of the Complaint.

29. Responding to Paragraph 29 of the Complaint, the State admits that I-872 has no specific severability clause, but denies that the absence of a severability clause would require the Court to void the entire enactment upon a finding that any portion is unconstitutional.

30. The State denies the allegations in Paragraph 30 of the Complaint.

IX. PLAINTIFFS' SECOND CAUSE OF ACTION

31. The State realleges and incorporates by reference Paragraphs 1 through 30 above.

32. The State denies the allegations in Paragraph 32 of the Complaint.

33. The State denies the allegations in Paragraph 33 of the Complaint.

X. PLAINTIFFS' THIRD CAUSE OF ACTION

34. The State realleges and incorporates by reference Paragraphs 1 through 33 above.

35. The State denies the allegations in Paragraph 35 of the Complaint.

36. The State denies the allegations in Paragraph 36 of the Complaint.

XI. PLAINTIFFS' FOURTH CAUSE OF ACTION

37. The State realleges and incorporates by reference Paragraphs 1 through 36 above.

38. The State denies the allegations in Paragraph 38 of the Complaint.

39. The State denies the allegations in Paragraph 39 of the Complaint.

40. The State denies the allegations in Paragraph 40 of the Complaint.

41. The State denies the allegations in Paragraph 41 of the Complaint.

42. All allegations in the Complaint not specifically admitted above are denied.

XII. STATE'S DEFENSE

1. The Complaint fails to state a claim on which relief can be granted.

XIII. PRAYER FOR RELIEF

The State Intervenor Defendants respectfully requests the Court to enter judgment as follows:

1. Dismissing the Complaint for failure to state a claim on which relief can be granted.

2. Declaring that Washington's election laws, and the conduct of elections under those laws, do not deprive the Plaintiffs of any legally cognizable constitutional or other rights protected by either the Constitution and laws of the United States or of the state of Washington.

3. Denying the declaratory and injunctive relief requested by the Plaintiffs or by Plaintiff Intervenors.

4. Granting the State its reasonable fees and costs to the extent permitted by law.

5. Granting such other relief as the Court may deem appropriate.

DATED this 7th day of July, 2005.

ROB MCKENNA
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The Honorable THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE REPUBLICAN PARTY, CHRISTOPHER VANCE, BERTABELLE HUBKA, STEVE NEIGHBORS, BRENT BOGER, MARCY COLLINS, MICHAEL YOUNG, Plaintiffs, v. DEAN LOGAN, King County Records & Elections Division Manager; BOB TERWILLIGER, Snohomish County Auditor; VICKY DALTON, Spokane County Auditor, GREG KIMSEY, Clark County Auditor, CHRISTINA SWANSON, Cowlitz County Auditor, VERN SPATZ, Grays Harbor County Auditor, PAT GARDNER, Pacific County Auditor, DIANE L. TISCHER, Wahkiakum County Auditor, and DONNA M. ELDRIDGE, Jefferson County Auditor, Defendants	NO. 05-0927 Z STATE INTERVENORS' ANSWER TO COMPLAINT IN INTERVENTION OF LIBERTARIAN PARTY

As and for an Answer to the Complaint in Intervention filed in this matter by the Libertarian

Party of Washington State (LP), the State Intervenors admit, deny, and allege as follows:

PARTIES

1. In Response to Paragraph 1 of the Complaint, the State has no specific knowledge as to the history of the Libertarian Party or the purposes for which it was organized, but has no specific basis to contest the accuracy of these allegations.

2.-3. Responding to Paragraphs 2 and 3 of the Complaint, the State has no knowledge as to the truth of the allegations contained therein, but has no basis to contest the accuracy of these allegations.

4. Responding to Paragraph 4 of the Complaint, the State admits this paragraph accurately names a number of county officers, who have duties as prescribed in state law. The State further admits that each of the officers in questions resides in the Western District of Washington, except Vicky Dalton, who resides in the Eastern District of Washington.

JURISDICTION AND VENUE

5. In response to Paragraph 5 of the Complaint, the State admits that this case presents a federal question and that this Court has jurisdiction.

6. In response to Paragraph 6 of the Complaint, the State admits that the Western District of Washington is a proper venue for this action.

FACTUAL ALLEGATIONS

7. Paragraph 7 consists of legal argument concerning the asserted constitutional rights of

political parties. The State denies that Paragraph 7 is an accurate summary of the state of the law.

8. In response to Paragraph 8, the State admits that Initiative 872 (I-872) was enacted, and that the text of the initiative is a matter of official record. The State denies the remaining allegations in Paragraph 8.

9. In response to Paragraph 9 of the Complaint, the provisions of I-872 are matters of official record and need not be the subject of factual pleadings. The State admits that I-872 establishes a system in which qualification for the general election ballot is not based on the political party affiliation or preference of the candidates. The remaining allegations in Paragraph 9 are denied.

10. Responding to Paragraph 10, the State admits that Paragraph 10 includes a short quote from the voters' pamphlet, taken out of context, but denies that the quote is material to this controversy. The remaining allegations in Paragraph 10 are denied.

11. Paragraph 11 consists of legal argument. The State denies that Paragraph 10 is an accurate statement of the law.

12. Paragraph 12 consists of legal argument. The State denies that Paragraph 12 is an accurate statement of the law.

13. Paragraph 13 consists of legal argument. The State denies that Paragraph 13 is an accurate statement of the law.

14. Paragraph 14 consists of legal argument. The State denies that Paragraph 14 is an accurate state of the law.

15. In response to Paragraph 15, the State admits that the LP nominated candidates for office by convention in some historical periods. The State admits that the Secretary of State has adopted rules implementing I-872 and that the contents of the rules are matters of official record. The State denies the remaining allegations in Paragraph 15.

16. In response to Paragraph 16, the State admits that I-872 contains language repealing certain earlier statutes. The State further asserts that any previous statutes, expressly repealed or not, that are inconsistent with I-872, have been impliedly repealed or amended by the Initiative. The remaining allegations of Paragraph 16 are denied.

17. Paragraph 17 consists of legal argument. The State denies that Paragraph 17 accurately states the law.

18. Paragraph 18 consists of legal argument. The State denies that Paragraph 18 accurately states the law.

19. Paragraph 19 consists of legal argument. The State denies that Paragraph 19 accurately states the law.

20. Responding to Paragraph 20, the State has no knowledge as to whether the term "Libertarian Party" is trademarked and therefore denies this allegation. The remaining allegations consist of legal argument. The State denies that they accurately state the law.

21. Paragraph 21 consists of legal argument. The State denies that Paragraph 21 accurately states the law.

22. Responding to Paragraph 22, the State has no specific knowledge as to the contents of rules adopted by the LP. The State denies that State law involves "affiliations" between parties and candidates for office, other than affiliations created by the parties, and further denies any remaining allegations in Paragraph 22.

23. Paragraph 23 consists of legal argument. The State denies that Paragraph 23 accurately states the law.

24. Paragraph 24 consists of legal argument. The State denies that Paragraph 24 accurately states the law.

25. Paragraph 25 consists of legal argument and speculation about hypothetical situations. The State denies that the Secretary of State has ever taken a position concerning the hypothetical election set forth in Paragraph 25. The remaining allegations are likewise denied.

26. Paragraph 26 consists of legal argument. The State denies that Paragraph 26 accurately states the law.

27. Paragraph 27 consists of legal argument. The State denies that Paragraph 27 accurately states the law.

FIRST CAUSE OF ACTION: DECLARATORY JUDGMENT

28. The State realleges and incorporates by references Paragraph 1 through 27.

29. Responding to Paragraph 29, the State admits that there is a controversy between the parties concerning the constitutionality of Washington's election system. The State denies that its election system is unconstitutional.

30. The State denies the allegations in Paragraph 30.

31. Responding to Paragraph 31, the State alleges that RCW 29A.20.110 through .201 were impliedly repealed by the enactment of I-872, except to the extent the older statutes can be implemented in harmony with the Initiative. The State further alleges that the Secretary of State has authority to implement the Initiative through rules. The remaining allegations in Paragraph 31 are denied.

32. Responding to Paragraph 32, the State admits that the LP is entitled to nominates its standard bearers through conventions if the Party so chooses. The State denies that state or county officials have ever interfered, or threatened to interfere, with the party convention process. Any remaining allegations are denied.

33. The State denies the allegations in Paragraph 33.

34. The State denies the allegations in Paragraph 34.

35. The State denies the allegations in Paragraph 35.

36. The State denies the allegations in Paragraph 36.

SECOND CAUSE OF ACTION: INJUNCTIVE RELIEF

37. The State realleges and incorporates by reference Paragraphs 1 through 36 above.

38. The State denies the allegations in Paragraph 38.

39. The State denies the allegations in Paragraph 39.

40. The State denies the allegations in Paragraph 40.

41. The State denies the allegations in Paragraph 41.

STATE'S DEFENSE

1. The Complaint fails to state a claim on which relief can be granted.

PRAYER FOR RELIEF

The State Intervenor Defendants respectfully request the Court to enter judgment as follows:

1. Dismissing the Complaint for failure to state a claim on which relief can be granted.

2. Declaring that Washington's election laws, and the conduct of elections under those laws, do not deprive the Plaintiffs of any legally cognizable constitutional or other rights protected by either the

Constitution and laws of the United States or of the state of Washington.

3. Denying the declaratory and injunctive relief requested by the Plaintiffs or by Plaintiff Intervenors.

4. Granting the State its reasonable fees and costs to the extent permitted by law.

5. Granting such other relief as the Court may deem appropriate.

DATED this 7th day of July, 2005.

ROB MCKENNA
Attorney General

MAUREEN A. HART, WSBA #7831
Solicitor General

James K. Pharris

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The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE REPUBLICAN PARTY, et al., Plaintiffs, WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE, et al., Plaintiff Intervenors, LIBERTARIAN PARTY OF WASHINGTON STATE, et al., Plaintiff Intervenors, v. DEAN LOGAN, King County Records & Elections Division Manager, et al., STATE OF WASHINGTON, et al., Defendant Intervenors WASHINGTON STATE GRANGE, Defendant Intervenors.	No. C05-0927-Z STIPULATION AND AGREED ORDER OF SUBSTITUTION AND DISMISSAL **Noted for Consideration:** **Date of filing pursuant to Local Rule 7(d)(1)**

STIPULATION

COME NOW the parties in this matter, Washington State Republican Party, et al., plaintiffs, and Dean Logan, et al., defendants, by and through

their counsel of record, and agree and stipulate as follows:

1. This matter came on before the Honorable Senior District Court Judge Thomas Zilly on June 7, 2005, for a status conference at which the Court made numerous oral rulings regarding the orderly and efficient resolution of this matter.

2. One of those oral rulings, now reduced to a written ruling allowing the State of Washington to intervene (dkt. #30), has made it unnecessary for the individual auditor defendants to remain parties to this action.

3. The individual auditor defendants signing below rely on the State of Washington to defend this action in all respects, and agree to be bound by this Court's ruling with respect to the matters at issue. The State of Washington has agreed to be substituted for the auditor defendants as though it were the original defendant, for all purposes.

4. Said individual auditor defendants are no longer necessary to this action, and should be dismissed with prejudice and without costs.

5. This Court has the authority and discretion to grant this stipulated order pursuant to *inter alia*, Fed. R. Civ. P. 16.

ORDER

THIS MATTER having come on duly and regularly before the undersigned Judge of the above-entitled Court, the parties having reached an agreement and stipulation as set forth above, and

the Court being fully apprised of the premises, NOW THEREFORE,

IT IS HEREBY ORDERED the individual auditor defendants signing below rely on the State of Washington to defend this action in all respects and agree to be bound by the Court's ruling with respect to the matters at issue. Said defendants are no longer necessary to this action and are dismissed with prejudice and without costs. The State of Washington shall be substituted for the auditor defendants as though it were the original defendant, for all purposes. This Court has the authority and discretion to grant this stipulated order pursuant to, *inter alia*, Fed. R. Civ. P. 16.

THE CLERK shall adjust the CM/ECF Docket Sheet accordingly, and give notice of this Stipulation and Agreed Order to all counsel of record.

DONE IN OPEN COURT this 13th day of July, 2005.

Thomas S. Zilly

Judge Thomas Zilly

Approved:

PLAINTIFFS:

By approved via email
John J. White, Jr. WSBA #13682
Kevin B. Hansen, WSBA #28349
Attorneys for Plaintiffs

PLAINTIFFS IN INTERVENTION:

By ____approved via email
David T. McDonald, WSBA #5260
Jay Carlson, WSBA #304111
Attorneys for Plaintiffs in Intervention, Washington State Democratic Party and Paul R. Berendt, Chair

By____approved via email
Richard Shepard, WSBA #16194
Attorney for Plaintiffs in Intervention, Libertarian Party of Washington, Ruth Bennett, and J.S. Mills

DEFENDANTS:

By____approved via email
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King County Deputy Prosecuting Attorney
Attorney for Defendant Dean Logan

By____approved via email
Robert Tad Seder, WSBA #14521
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By approved via email
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Wahkiakum County Deputy Prosecuting Attorney
Attorney for Defendant Diane L. Tischer

By approved via email
David Alvarez, WSBA #29194
Jefferson County Deputy Prosecuting Attorney
Attorney for Defendant Donna M. Eldridge

DEFENDANTS IN INTERVENTION:

By James K. Pharris
James K. Pharris, WSBA #5313
Attorney for Defendant Intervenors State of Washington, et al.

By approved via email
Thomas F. Ahearne, WSBA #14844
Attorney for Defendant Intervenor Washington State Grange

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE REPUBLICAN PARTY, et al.,

Plaintiffs,

and

WASHINGTON DEMOCRATIC CENTRAL COMMITTEE, et al.,

Plaintiff Intervenors,

and

LIBERTARIAN PARTY OF WASHINGTON STATE, et al.,

Plaintiff Intervenors,

v.

DEAN LOGAN, King County Records & Elections Division Manager, et al.,

Defendants,

STATE OF WASHINGTON,

Defendant Intervenors

and

WASHINGTON STATE GRANGE,

Defendant Intervenors.

No. C05-0927Z

ORDER

[Clarifying Previous Order]

Plaintiff Republican Party sought a status conference by letter dated August 8, 2005. *See*

Letter from John J. White, docket no. 105. The Republican Party sought clarification of the status of two claims in light of this Court's Order on Summary Judgment, docket no. 87, and Permanent Injunction, docket no. 94. First, Plaintiff asks the Court to consider its challenge to Wash. Rev. Code § 29A.24.031, the filing statute under the "Montana" primary. Second, Plaintiff asks the Court to address its challenge "on equal protection grounds, of protections under state law granted to minor parties with regard to the use of their name by candidates not authorized by the minor party to use the name." *See* Letter, docket no. 105.

Pursuant to the Plaintiff Republican Party's request, the Court held a telephone status conference, on the record, on Friday, August 12, 2005. After considering the argument of counsel and being fully advised, the Court enters the following Order:

(1) The Court CLARIFIES its Order on Summary Judgment, docket no. 87. That Order did not decide whether the "Montana" primary filing statute, Wash. Rev. Code § 29A.24.031, was unconstitutional as part of the "Montana" primary system. That issue was not properly raised by the parties in connection with the stipulated legal issues agreed to by the parties for expedited briefing. *See* Stipulated Statement of Legal Issues, docket no. 40. In addition, the issue was not clearly identified by the Supplemental Motion for Summary Judgment filed by the Plaintiff Republican Party. *See* Republican Supplement, docket no. 63.

(2) The Court's Order on Summary Judgment "[did] not reach the equal protection argument raised by the Republican Party" because the Court found Initiative 872 unconstitutional on other grounds. *See* Order, docket no. 87, at 34.

(3) The Court concludes in the interest of justice this action should be and hereby is STAYED in light of the pending appeals to the Ninth Circuit. See Notices of Appeal, docket nos. 95, 97; *see also Marathon Oil Co. v. United States*, 807 F.2d 759, 764-65 (9th cir. 1986).

(4) The Court further STAYS consideration of any motion for attorneys' fees until further Order by the Court.

IT IS SO ORDERED.

Dated this 12th day of August, 2005.

Thomas S. Zilly

Thomas S. Zilly
United States District Judge